No. 82-5105

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

BRUCE THOMAS PHILLIPS BEING HELD PRISONER AS: WILLIAM JOHN HASLEM — Petitioner-Appellant

v.

RONALD C. MARSHALL SUPERINTENDENT SOUTHERN OHIO CORRECTIONAL FACILITY — Respondent-Appellee

ON APPEAL FROM THE SUPREME COURT OF OHIO

JURISDICTIONAL STATEMENT

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the State of Ohio is allowed to violate the Petitioner-Appellant's U.S. Constitutional Rights by incarcerating him and depriving him of his liberty by placing him in prison without any form of due process of law requirements of the U.S. Constitution under the 5th & 14th amendments?

2. Whether the Ohio Supreme Court is allowed to disregard the United States Constitution, the Ohio law, and the basis for it's own existance as laid down by the Ohio Legislature in the form of statutes, and in doing so allows the State of Ohio to violate the U.S. Constitutional rights of the Petitioner-Appellant?

3. Whether the Ohio Supreme Court is allowed to disregard the Common Laws, The Ohio Constitution, and it's own statutes (Ohio Revised Code) in allowing the state to violate the Petitioner-Appellant's U.S. Constitutional Rights?

4. Whether the Ohio Supreme Court can arbitrarily award one lower court ruling res judicata and not award res judicata to another lower court ruling when both court rulings were duly litigated in the same lower court, Cuyahoga County Court of Common Pleas, and both rulings were pursuant to statute authority, and both rulings were concerning the same person, when Ohio Constitution Article II sec. 26 requires uniform operation of the law, and by doing so permits the Petitioner-Appellant's U.S. Constitutional Rights guaranteed under the 5th & 14th amendments of the U.S. Const. to be rendered invalid?

5. Whether the Ohio Supreme Court is allowed to arbitrarily disregard and refuse to recognise the basic constitutional rights of the Petitioner-Appellant as covered in the U.S. Constitution 5th & 14th amendments in its decision to dismiss the Petitioner-Appellant's Petition for Writ of Habeas Corpus under O.R.C. 2725.04 which is in effect, rendering invalid the 5th & 14th amendments of the U.S. Constitution?

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OPINIONS BELOW

1. On May 26, 1982 Petitioner-Appellant's case was dismissed by Ohio Supreme Court with no opinion. (A.1)

2. On June 23, 1982 Petitioner-Appellant's Motion to Reconsider was dismissed by Ohio Supreme Court with no opinion. (A.2)

JURISDICTION

This is an appeal from an erroneous decision delivered by the Ohio Supreme Court.

The grounds on which jurisdiction to this court is invoked are 5th & 14th amendment violations of the Petitioner-Appellant's U.S. Constitutional rights guaranteeing due process and equal protection of law.

The Petitioner-Appellant raised these violations in the Ohio Supreme Court by Petition for Writ of Habeas Corpus which was filed in that court on March 8, 1982 as case #82-371 under Ohio Revised Code 2725.04 et. seq. (A.12-15) as a original action.

No responsive pleading was filed by Respondent-Appellee and on May 26, 1982, this action was dismissed on Respondent's Motion to Dismiss. (A.1)

On June 8, 1982, Petitioner-Appellant filed a timely Motion to Reconsider, pursuant to that courts rules respecting rehearings.

On June 23, 1982, Petitioner-Appellant's timely Motion to Reconsider was dismissed without opinion. (A.2)

On June 28, 1982, Petitioner-Appellant's timely Notice of Appeal was filed in the Ohio Supreme Court to the order of dismissal of case 82-371. (A. 3)

The time for Notice of Appeal to this court is found under this courts Rule 11.3. The notice of appeal complied with this court's Rule 10 sec..1& .2 and proof of service was conformed to in the manner prescribed under this courts Rule 28.3.

The jurisdiction of this court is believed to be conferred under Title 28, United States Code, section 1257 (1)[1] which states:

> (1) By appeal, where is drawn in question validity of a treaty or statute of the U.S. and the decision is against it's validity.

Since this was an <u>original action</u> originating in the Ohio Supreme Court, and directly affects the Petitioner-Appellant's U.S. Constitutional Rights, this court has

[1] No other Petitioner-Appellant is involved.

Jurisdiction( ) order to properly afford( )e Petitioner-Appellant effective appellate review, due process of law, justice & fairness and equal protection of the laws, because the only adequate and effective remedy or recourse open to the appellant, to afford him appellate review pursuant to an adverse decision from the highest state court is by appeal to the U.S. Supreme Court as the following case cites sustain:

> "Only the U.S. Supreme Court is authorized to review on direct appeal the decision of state cts."
> Lecci v Cahn, 1974, 493 F2d 826
>
> "Where state courts have erred, the proper form for a appeal is the U.S. Supreme Court."
> Aristocrat Health Club of Hartford v Chaucer
> 451 F Supp 210
>
> "No Court of the U.S. other than U.S. Supreme Court can entertain a proceeding to reverse or modify a state court judgement which is in error."
> Adkins v Underwood, 1974, 370 F.Supp 510
>
> "Conventional notions of finality in criminal litigation whether a decision of the highest state court on a federal issue is a "final judgement" or "decree" within the meaning of this section limiting Supreme Court review to final judgement or decree of the highest court of the state"
> Cox Broadcasting Co. v Cohn, 1975, 95 S.Ct. 1029

In this instant case, the Appellant's fundamental Federal rights are denied by Ohio Supreme Courts illegal failure to uphold final judgement/decree, litigated pursuant to Ohio law, and as such, the U.S. Supreme Courts judgement may be invoked as the following cases sustain:

> "Whether state court denial to rights asserted under local law protection guaranteed by U.S. Constitution is question on which Supreme Courts judgement may be invoked."
> Demorest v City Bank Farmenrs Trust Co., 1944
> 64 S.Ct. 384
>
> "Where asserted federal right is denied, the sufficiency of grounds of denial is for the United States Supreme Court to decide."
> Angel v Bullington, N.C., 1947, 67 S.Ct. 468
>
> "Civil litigant may seek review in the U.S. Supreme Court of any federal claim properly asserted and rejected by state court."
> Huffman v Pursue Ltd, Ohio 1975, 97 S.Ct. 468
>
> "Federal question decided by Oregon Supreme Court was subject to final determination in the U.S. Supreme Court."
> Parker v Gladden, 1966, 87 S.Ct. 468
>
> "The Supreme Court will review or independently determine all questions on which a federal right is necessarily dependent."
> U.S. v Pink, N.Y. 1942, 62 S.Ct. 552

prive[illegible]y a state court of fundam[illegible]al right secured by federal constitution, an independent examination of facts by the Supreme Court may be had."
Craig v Harney, 1947, 67 S.Ct. 1249

"So far as a judgement of a state court against the validity of an authority claimed by defendant under the United States, necessarily involved the decision of questions of law, as distinguished from questions of fact, it must be reviewed, whether that question depends upon the Constitution, laws, or treaties of the United States, or on local laws, or upon principles of general jurisprudence."
Stanley v Schwalby, Tex. 1896, 16 S.Ct. 754

"United States Supreme Court must decide whether it has jurisdiction in a particular case and must determine whether the federal question involved was necessarily passed upon by the state court, and such determination must rest upon examination of the record."
Honeyman v Hanan, N.Y., 1937, 57 S.Ct. 350

Petitioner-Appellant's Writ of Habeas Corpus was dismissed by Ohio Supreme Ct's. erroneously sustaining (A 1) Respondents Motion to Dismiss (R) & by this erroneous dismissal Ohio Supreme Court has evaded U.S. Const. issues asserted by appellant, which are [illegible] of due process of law & equal protection of law as guaranteed by 5th & 14th amendments of the U.S. Const. (Pg.4) as Petitioner-Appellant has not been convicted in any court of law before being placed in Ohio prison on or about Sept. 30, 1981.

The dismissal was erroneous (A.1) because Supreme Court of Ohio did not uphold the valid and unvacatable judgement/decree (A.4) rendered by Cuyahoga Cnty. Common Pleas Ct., which is a constitutionally provided for court of law-under the Ohio Const. Art. IV sec. 1 & 4, A,B, & C (Pg.5), decreeing the death of William John Haslem for all purposes under the law of the State of Ohio, when this court judgement/decree was duly litigated pursuant to law of Ohio-O.R.C. 2121.01 et. seq. (A.6-11) and was unvacatable as of 6/6/81. And by not upholding this judgement (A 4) the Supreme Ct. Of Ohio violated Art. II sec. 26 (Pg.5) of Ohio Const., which mandates that Ohio laws have uniform operation throughout the state.

By evasion of Constitutional issues Appellant is entitled to invoke judgement of U.S. Supreme Ct as the following supports:

"Whether state court is basing decision on nonfederal grounds, has thereby sought to evade constitutional issue, is a question on which litigant is entitled to invoke judgement of Supreme Court, though existance of claimed right for which constitutional protection is claimed depends on state law."
Fox River Paper Co. v Railroad Commission of Wisconsin, Wis. 1927, 47 S.Ct. 669, 274 U.S. 651

"The d[illegible] rests on the United Stat[illegible] Supreme Court to dec.de for itself facts or constructions upon which federal Constitutional issues rest."
Kern-Limerick v Scurlock., Ark. 1954. 74 S.Ct. 403

"Whether state court denial to rights asserted under local law protection guaranteed by U.S. Constitution is question on which Supreme Courts judgement may be invoked."
Demorest v City Bank Farmers Trust Co., 1944, 64 S.Ct. 384

Petitioner-Appellant submitted prime facie evidence [1] to Ohio Supreme Court of his illegal imprisonment by the warden of the penitentiary where he is confined, in his petition for Writ of Habeas Corpus (R. orig. petition Pg. 11 ec.5), the valid & unvacatable court judgement/decree, decreeing William John Haslem, the"alleged escapee" legally dead for all purposes under the law of the State of Ohio (A.4) & this judgement is prime facie evidence that appellant is not and could not be the "alleged escapee" Haslem, whose sentence for crime appellant is illegally being forced to serve. (A.5)

Ohio Supreme Court erroneously dismissed appellant's Petition for Writ of Habeas Corpus (A.1) on Respondent's Motion to Dismiss.(R)

This erroneous dismissal by Ohio Supreme Court does not invaladate this unvacatable judgement (A.4) and this judgement is entitled to full faith & credit in Federal Courts as supported by the following cases:

"a decision in state court relating to jurisdiction either of person or subject matter is entitled to full faith & credit in courts of another state or in Federal Courts."
City of Buffalo v Plainfield Hotel Corp. C.A.N.Y. 1949. 177 F 2d 425. cert. denied 79 S.Ct.795

Gart v Cole. D.C.N.Y. 1958. 166 F.Supp 129 affirmed 263 F2d 244. cert. denied 79 S.Ct. 898

Judgement of Ill., Ct. declaring as legally dead person who had disappeared seven years earlier was entitled to full faith & credit in Federal Dist. Court, where declaration had been made agreeably with statute, common law, practice and usage in Ill.
Rawley v U.S. 277 F. Supp 817

The U.S. Constitution requires that one state give full faith & credit to another states court judgements when those judgements are based on the legislated laws of that state. In this instant case we are concerned with the legislated law of Ohio & valid, unvacatable judgement (A.4) rendered pursuant to this law & the refusal of Ohio Supreme Ct. to award full faith and credit to its own lower state court judgement.

[1] see A-11-A

The courts of sister states of Ohio & Federal courts are required by ART. IV of the U.S. Const. to give full faith & credit to the death decree (A 4) of William John Haslem, unless it is repugnant to their own laws; under 2121.05 C (A 6) insurance companies must pay on life insuamnce policies, and the assets of the decedent must be distributed, and the decedents last will & testament shall be probated, & under 2121.04 C (A 7) the decedent's marriage is disolved; under 2121.04 B (A 7) the decedent's death shall for all purposes under the law of this state be regarded as having occured on the date of the decree; & under 2121.08 A (A 10) the decree is unvacatable after a three-year period from the date of the decree; & by the specific language of O.R.C. 2121.01 (A 6-10) & the intent of Ohio legislators in drafting this law, William John Haalem is dead for all purposes under the law of the State of Ohio.

The Supreme Court of Ohio has refused to uphold Ohio law by dismissing Appellant's Petition for Writ of Habeas Corpus (A11) and has permitted the ongoing violation of Appellant's U.S. Const. rights guaranteed by the 5th & 14th amendments of the U.S. Constitution by forcing him to serve the sentence of a person who he can not be, as that person is legally dead for all purposes under the law of this state.

Pursuant to the Constitution of the State of Ohio, Art II sec. 26 (Pg.5) the Ohio Supreme Court must uphold the laws of the State of Ohio, it can not ambiguously deny recognition of Ohio's own legislated law, as that court has done on May 26, 1982 by dismissal of Appellants case #82-371 in that court (A 1) for their is nothing more corrosive to a government than for a court to refuse to recognise its own laws.

Ohio Supreme Courts inconsistency in upholding valid court judgements litigated pursuant to Ohio Law & failure to give full faith & credit to this judgement (A 4) has resulted in U.S. Constitutional violations of Petitioner-Appellant's 5th & 14th amendment rights, therefore, appellate review should be granted in this case.

Petitioner-Appellant asserted violations of his fundamental rights, of due process of law, and equal protection of law, which are guaranteed to him by the 5th & 14th amendments of the U.S. Constitution, in his Petition for Writ of Habeas Corpus (R.Pg. 1 orig. Pet.) and presented prime facie evidence, to the Ohio Supreme Court of his illegal imprisonment by the Warden of the prison where he is confined, that he was not, nor could he be, the person whose sentence he was being forced to serve, namely, the valid & unvacatable death decree of the "alleged escapee" Haslem. (R. Pg. 11 ex. 5 orig. Petition) but Ohio Supreme Court dismissed this case (A.1) on Respondents Motion to Dismiss for failure to state a claim for which relief could be granted. (R. Respondents Motion to Dismiss)

A motion to dismiss, is not a responsive pleading as the following supports:

Richardson v U.S., 1964, 336 F 2d 265

Conley v Gibson, 1958, 78 S.Ct. 99

therefore, Ohio Supreme Court did not require an answer to Petitioner's allegations by the Warden of the penitentiary where Petitioner-Appellant is illegally imprisoned, therefore, this court (U.S. Supreme) should regard Petitioner-Appellant's allegations as true, as the following supports:

> "Where Supreme Court of Illinois dismissed habeas corpus petitions without requiring an answer by warden of the state penitentiary where petitioners were confined, United States Supreme Ct. must assume that petitioner's allegations are true."
> White v Ragan, Ill., 1945, 65 S.Ct. 978

Petitioner-Appellant raised these questions of the denial of his fundamental rights and allegations of his illegal incarceration in the proper manner as the following supports:

> "The great and central office of the Writ of Habeas Corpus is to test the legality of a prisoners current detention."
> Walker v Wainwright, 88 S.Ct. 962

Petitioner-Appellant's allegations of violations of his fundamental Federal Rights guaranteed by the 5th & 14th amendments of the U.S. Constitution were properly raised and were squarely before the Ohio Supreme Court (R. orig. Pet. for Writ of Habeas Corpus) & (R. Petitioner's Motion to Reconsider) yet, Ohio Supreme Court dismissed this case (82-371) with no

opinion (A.1 & 2) & when questions properly raised before a state court, they may come to the U.S. Supreme Ct. for decision as the following supports:

"Every question arising under the Federal Const. may, if properly raised in a state court, come ultimately to the U.S. Supreme Ct. for decision."
Hague v Committee for Industrial Orginazation, N.J., 1939, 59 S.Ct. 954

"Where a right is claimed in a state court arising under a statute of the U.S., a question is presented reviewable by the Supreme Court of the United States."
Supreme Lodge, etc. Knights of Pythias of North America ets. 1912, 59 So. 88 102 Miss 280

"Whether claims are based on a federal right or are merely of local concern is a federal question on which the U.S. Supreme Ct., and not the Supreme Ct of state has final auth.
Angel v Bullington, N.C. 1947, 67 S.Ct. 657

The issues involved in this appeal are clear-they involve only law, and judgements at law.

And the laws involved are the laws of the United States

Constitution: Amendment 5-due process of law.....(Pg. 4)
" 14-equal protection of law.....(" 4)

And the laws of the State of Ohio:
O.R.C. 2121.01 et. seq.....(A6-11)
OAG No. 3053.....(Pg.7)
Ohio Common Law.....(Pg.7)
Cuyahoga Cnty. Common Pleas Ct. judgement/decree, duly litigated pursuant to O.R.C. 2121.01.....(A. 4)
Constitution of Ohio Art. II sec. 26, which mandates that Ohio Law be upheld in the State of Ohio.....(Pg. 5)

And the erroneous judgement of dismissal by the Ohio Supreme Court which is against the validity of all the laws of Ohio and the constitutions set out above.....(A1 & 2)

And by the failure of Ohio Supreme Court to uphold the law, and the judgement, and the constitutional provisions above, this case must be reviewed as the following supports:

"So far as a judgement of a state court against the validity of an authority claimed by defendants under the United States necessarily involves the decision of questions of law, as distinguished from questions of fact, it must be reviewed, whether that question depends upon the Constitution, laws, or treaties or the United States, or on local laws, or upon principles of general jurisprudence."
Stanley v Schwalby, Tex. 1896, 16 S.Ct. 754

"Only questions of law, apparent on the record can be considered, and there can be no inquiry whether there was error below in dealing with questions of fact."
Behn, Meyer & Co. v Campbell & Co., Tauco, Phillipine Islands, 1907, 27 S.Ct. 502

CONSTITUTIONAL PROVISIONS AND STATUTES THAT THIS CASE INVOLVES

United States Constitution, Amendment V:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a Grand Jury; except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States Constitution, Amendment XIV:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, wherein they reside. No State shall make or enforce any law which shall abridge the priveleges of immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Ohio Constitution

> Article I
> Section 2. Right to alter, reform, or abolish government, and repeal special priveleges.
>
> All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special priveleges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.
>
> Section 16. Redress in courts.
>
> All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.

Ohio Constitution

Article IV
Section 1. In whom judicial power is vested.

The judicial power of the state is vested in a supreme court, courts of appeals, courts of common pleas and divisions thereof, and such other courts inferior to the supreme court as may from time to time be established by law.

Section 4. Common pleas court.

(A) There shall be a court of common pleas and such divisions thereof as may be established by law serving each county of the state. Any judge of a court of common pleas or a division thereof may temporarily hold court in any county. In the interest of the fair, impartial, speedy, and sure administration of justice each county shall have one or more resident judges, or two or more counties may be combined into districts having one or more judges resident in the district and serving the common pleas courts of all counties in the districtas the business of the court requires. In counties or districts having more than one judge of the court of common pleas, the judges shall select one of their number to act as presiding judge to serve at their pleasure. If the judges are unable because of equal division of the vote to make such selection, the judge having the longest total service on the court of common pleas shall serve as presiding judge untilselection is made by vote. The presiding judge shall have such duties and exercise such powers as are prescribed by rule of the supreme court.

(B) The courts of common pleas and divisions thereof shall have such original jurisdiction over all justicable matters and such powers of review of proceedings of administrative officers and agencies as may be provided by law.

(C) Unless otherwise provided by law, there shall be a probate division and such other divisions of the courts of common pleas as may be provided by law. Judges shall be elected specifically to such probate division and to such other divisions. The judges of of the probate division shall be empowered to employ and control the clerks, employees, deputies, and referees of such probate division of the common pleas courts.

Ohio Constitution

Article II
Section 26. What laws to have a uniform operation.

All laws, of a general nature, shall have a uniform operation throughout the state; nor, shall any act except such as relates to public schools, be passed to take effect upon the approval of any other authority than the general assembly, except, as otherwise provided in this constitution.

Ohio Revised Code Section 2121. et. seq.

2121.01 Eff. 9-30-74 (in part)

(A) Except as provided in division (B) of this section a presumption of the death of a person arises:

(1) When the person has disappeared and been continuously absent from his place of last domicile for a five year period without being heard from during the period:

(2) When the person has disappeared and been continuously absent from his place of last domicile without being heard from and was at the begining of his absence exposed to a specific peril of death, even though the absence has continued for less than a five year period.

2121.02 Eff. 9-30-74 (in part)

(F) The complaint shall cause to be advertised once a week for four consecutive weeks in a newspaper published in the county, the fact that the complaint has been filed toghether with a notice that on a day certain, which shall be at least four weeks after the last appearance of the advertisement, or after the final publication where any d defendent is being served by publication, which ever is later, the probate court will hear evidence relevant to the allegations of the complaint.

2121.03 Eff. 9-30-74

At the hearing the probate court shall hear such legally admissable evidence as is offered for the purpose of ascertaining whether the presumption of death is established, no person shall be disqualified to testify by reason of relationship as husband or wife to the presumed decedent, or by reason of an itterest in the presumed decedent, or by property or because of a right or interest under the terms of a contract, beneficiary designation, trust, or otherwise, arising by reason of the death of the presumed decedent.

2121.04 Eff 9-30-74 (in part)

(A) If satisfied that a presumption of death has been established, as provided in section 2121.01 of the Revised Code, the probate court shall so decree.

(B) The death of such presumed decedent shall for all purpose under the law of this state be regarded as having occurred as of the date of such decree.

2121.05 Eff 9-30-74 (in part)

(A) (in part): All facts pursuant to these proceedings shall be as valid as if the presumed decedent were in fact dead.

2121.08 Eff. 11-1-77 (in part)

(A) in part): The probate court may at any time within a three-year period from the date of the decree establishing the death of a presumed decedent upon proof satisfactory to the court that the presumed decedent is in fact alive, vacate the decree establishing the presumption of his death.

"Proceedings may be instituted under this section to have legally presumed dead an inmate of a state institution who has escaped and not been heard from for seven or more years and money on deposit in the name of the superintendent of such state institution, as trustee for such inmane, may be closed out and distributed according to law after a lega l presumption of death has been made out."
1934 OAG No. 3053 1/

"Common law rule as to the presumption of death arising seven years after the date of disappearancd has not been abrogated by the 'presumed decedents Act':

Blythe v Vail, 11 OO 393 (CP)

"While the common law rule as to the presumption of death does not fix the date of death, yet, in the absence of any evidence to the contrary, the date of death must be presumed to be at the end of the seven year period."
Rice v Lumley, 10 O.S. 596

Moressy, Adm., v Smith, Gdn.m 39 O.L.R. 329 (App)

1/OAG means 'Ohio Attorney General Reports and No, 3053 is valid Ohio Law.

STATEMENT OF THE CASE

Petitioner-Appellant, Bruce Thomas Phillips, was placed in prison by the officials of the State of Ohio on or about Sept. 30, 1981 without any form of Due Process of Law or any legal proceedings what-so-ever under the name of william John Haslem, whom he is not.

The person william John Haslem was sentenced to imprisonment by Ohio's Common Pleas of Cuyahoga County in 1966. (A.5)

William John Haslem allegedly escaped from a Ohio prison on Feb. 27, 1969 and was not seen, nor heard from since.

On Feb. 27, 1976 William John Haslem was dead according to the common Law of Ohio. (Pg.7)

On June 6, 1978 Common Pleas Court of Cuyahoga County Ohio rendered judgement/decree declaring William John Haslem legally dead for all purposes under the law of this state (A.4) as a result of proceedings instituted in that court pursuant to Ohio Revised Code 2121.01 et. seq. which is called the 'Ohio Presumed Decedents Act' (A.6/10) instituted by the family of William John Haslem.

Cuyahoga County Common PLeas Court judgement/decree (A.4) was unvacatable as of June 6, 1981 pursuant to requirement of Ohio Revised Code 2121.08 (A.10)

On March 8, 1982 Petitioner-Appellant's Petition for WRIT OF HABEAS CORPUS was filed in Ohio Supreme Court as an original action under Ohio Revised Code 2725.04 et. seq. (A.12-15) as case # 82-371 in which Petitioner-Appellant cited violations by the State of Ohio of illegal inprisonment by the State of Ohio in violation of Petitioner-Appellant's rights which are guaranteed by the 5th & 14th amendments of the U.S. Constitution.

Respondent-Appellee filed Motion to Dismiss on 3/29/82.

Petitioner-Appellant's Brief in Opposition to Respondent's Motion to Dismiss was filed in that court on 4/12/82.

Ohio Supreme Courts Order of dismissal of this case on the Respondents Motion to Dismiss was entered on 5/26/82, to which order this appeal is taken from. (A.1)

Petitioner-Appellant's Motion to Reconsider was timely filed in the Ohio Supreme Court on 6/8/82, on 6/23/82 this Motion to Reconsider was dismissed without opinion. (A.2)

Dismissal of Petitioner-Appellant's Petition for Writ of Habeas Corpus on Respondent's Motion to Dismiss (R) for failure to state a claim (R) was an erroneous decision because Petitioner-Appellant very definitely did state a claim upon which relief could be granted, in that, the Ohio Supreme Court did not uphold the legislated law as set forth in O.R.C. 2121.01 et. Seq. (A.6-11) and therefore allowed the U.S. Constitutional rights of the Petitioner-Appellant, which are guaranteed by the 5th & 14th amendments of the U.S. Constitution (Pg. 4) to be continued to be violated, and in in effect, The Ohio Supreme Court is rendering invalid the U.S. Constitutional rights of the Petitioner-Appellant by this erroneous decision. (A. 1)

The Petitioner-Appellant very definitely stated a relief that could have been granted, if the Ohio Supreme Court would have upheld the legislated law of Ohio, as the mandate for this courts very existance demands, and that is to be released from prison so that his rights not to be deprived of his liberty without due process and equal protection of the law are not violated, as they are now.

Petitioner-Appellant presented prima facie evidence to the Ohio Supreme Court in his original Petition for Writ of Habeas Corpus (R. orig. petition Pg. 11 ex. 5) that he was not, nor could be the'alleged escapee' Haslem as that person was declared legally dead for all purposes under the law of the State of Ohio (A.4) and pursuant to the statute law of the state of Ohio O.R.C 2121.01 et. seq. (A. 6-11) and the Ohio Supreme Court has no authority under Ohio law, (Art. II sec. 26 Ohio Const. Pg. 5) not to uphold Ohio law.

Pursuant to the law of the State of Ohio ORC 2121.01 (A 6-11) & unvacatable judgement/decree (A 4) the State of Ohio has no jurisdiction over the alleged escapee-Haslem & no jurisdiction over Petitioner-Appellant in relation to any violation of law & Appellant is illegally imprisoned in violation of his 5th & 14th amend. U.S. Constitutional rights.

Petitioner-Appellant brought into question, the valid statute law of the United States, the 5th & 14th amendments of the U.S. Constitution (R. orig. petition pg. 1.) and this decision (A. 1) is against the valid laws of the United States.

Petitioner-Appellant's Notice of Appeal was filed (A.3) in the Ohio Supreme Court on 6/28/82 to that courts order of dismissal (A.1.) which was timely and in conformance with this courts Rule 10 sec .1 & .2 and proof of service complied to Rule 28.3.

The jurisdiction to this court is believed to be invoked under Title 28 United States Code 1257 (1)

STATEMENT OF WHY QUESTIONS
PRESENTED FOR REVIEW ARE SO
SUBSTANTIAL AS TO REQUIRE
PLENARY CONSIDERATION

Foundation of our nation is based upon the Declaration of Independence, the United States Constitution containing the Bill of Rights, Common Law, and justice and Fairness, as drafted by our forefathers to prevent injustice to the individual at the hands of Government.

As set forth in the Declaration of Independence:

> "all men are Created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the Consent of the Governed."
>
> and United States Constitutional Rights set forth in the amendments:
>
> 5th amendment (Pg.4) due process of law
> 14th " (Pg/4) equal protection of law

In this instant case, Petitioner-Appellant, Bruce Thomas Phillips, has been deprived of his liberty, without due process of law and placed in Ohio prison in violation of his U.S. Constitutional rights as covered under the U.S. Constitutions 5th & 14th amendments supra.

As stated above, liberty is one of our most prized possessions and a person cannot be deprived of his liberty without due process of law as covered under these amendments and the Ohio Constitution also supports this: (Pg.4)

Article I sec. 2, equal protection
" I " 16, due process.

In this instant case, the Petitioner-Appellant, Bruce Thomas Phillips has been deprived of his liberty without due process of law by the State of Ohio in that the State of Ohio has him in prison and the reason for the continuation of this is as follows:

1. By permitting the continued illegal imprisonment of appellant in violation of appellant's 5th & 14th amendment rights which guarantee due process & equal protection of law to him, under the U.S. Constitution by erroneously dismissing his petition for Writ of Habeas Corpus. (A.1)

2. Ohio Supreme Ct. erroneously dismissed appellant's petition for Writ of Habeas Corpus on Respondent's Motion to Dismiss (R) for failure to state a claim when Respondent had no valid contention in his Motion to Dismiss, and when pursuant to Ohio law 2121.01 et. seq. (A.6-11) and unvacatable judgement/decree (A.4) decreeing William John Haslem legally dead for all purposes under Ohio law, The State of Ohio had no jurisdiction over the "alleged escapee" Haslem, whose sentence for crime (A.5) appellant is being forced to serve, nor jurisdiction over appellant for any crime and by this erroneous dismissal (A.1) afforded no res-judicata to the unvacatable judgement/decree (A.4) decreeing Haslem legally dead for all purposes under the law of Ohio and yet afforded res-judicata to the same courts judgement of Oct. 27, 1966 sentencing Haslem for crime (A.5) when both judgements concerned the same person, and both judgements duly litigated pursuant to Ohio Statute authority, and both judgements litigated in the same court, The Cuyahoga County Common Pleas Court.

3. By erroneous dismissal (A.1) of appellant's petition for writ of Habeas corpus Ohio Supreme Ct. has also disregarded appellants rights to due process of law and equal protection of law guaranteed him by Ohio Constitution Art I sec 2 & 16 (Pg.4) and has disregarded the common law of Ohio (Pg.7)in addition to failing to uphold statute law O.R.C. 2121.01 et. seq. (A 6-11) and unvacatable judgement/decree (A.4) duly litigated pursuant to this statute law, and by Ohio Supreme Ct's failure to uphold the law and above judgement/decree, that court is in total violation of Ohio Constitution Art. II sec. 26 (Pg.5) which requires uniform operation of Ohio law throuought the State of Ohio.

decreeing the "alleged escapee" Haslem legally dead according to the clear & unambiguous language of O.R.C. 2121.01 (A. 6-11) when this statutes language is clearly reflective of its common law basis as the following supports:

"The common-law rule as to the presumption of death arising seven years after the date of dissappearance has not been abrogated by the presumed decedents' act."
Blythe v Vail, 11 OO 393 (CP)

And the death decree of William J. Haslem (A.4) also embodies common law terms in its specific meaning, "it is therefore ordered that the death of William John Haslem, presumed decedent, shall be regarded as having occurred on the 6th day of June, 1978 for all purposes under the law." and this statute and judgement, duly litigated pursuant to Ohio law may not be interpreted by courts in any other way than the language expressed in common law terms embodied in this statute & judgement as the following supports:

"Statute is not to be construed as making any inovation upon common law which it does not fairly express."
Robert C. Herd & Co. v Krawill Machinery Corp. Md. 1959, 79 S.Ct. 766

The constitutional Ohio statute O.R.C. 2121.01 (A.6-11) and duly litigated judgement/decree rendered pursuant to this statute (A.4) must be upheld by Ohio Supreme Ct. as the following supports:

"The plain words and meaning of a statute cannot be overcome by legislative history.
Gemsco, Inc., v Walling, 1945, 65 S.Ct. 605

"The plain meaning of a statute must be adopted, however severe the consequences."
Jay v Boyd, Wash. 1956, 76 S.Ct. 919

"It is duty of court to give effect, if possible to every clause and word of statute."
U.S. v Menasche, Puerto Rico, 1955, 75 S.Ct. 513

"A court in interpreting a statute may not depart from its clear meaning."
U.S. v Sullivan, Ga., 1948, 68 S.Ct. 331

"When terms of a statute are unambiguous, court may not speculate on probabilities of intention."
Brunner v U.S. Ga., 1952, 72 S.Ct. 581

"In interpretation of statute, it is presumed that legislature did not employ useless verbage and that each word has independent meaning.
Skovgaard v The Tungus, C.A.N.J., 1957, 252 F 2d 14, AFFIRMED 79 S.Ct. 503

"Courts are controlled by language of statute, and arguments as to policy of statute must be addressed to the legislature and not to the courts."
Morgenthau v Barrett, 1939, 60 S.Ct. 615

The person William John Haslem is legally dead for all purposes under the law of Ohio (A.4)by virtue of Ohio statute law 2121.01 et. seq. (A.6-11) and the judgement is unvacatable as required by Orc 2121.08A (A.10) and by virtue of the common law of Ohio (Pg.7) and appellant has presented this prime facie 1/ evidence in support of the fact that his rights guaranteed by the 5th & 14th amendments of the U.S. Constitution are being violated by the State of Ohio in that the warden of the penitentiary where he is confined is holding him in prison in violation of Ohio law and in violation of his U.S. Const. rights. This evidence was presented to Ohio Supreme Ct by Appellant Phillips in his original petition for Writ of Habeas Corpus (R. orig. pet. Pg.11 ex.5)in case #82-371.

Ohio Supreme Ct. erroneously dismissed Appellant Phillips (A.1) case, and refused to apply the doctrine of res-judicata to the valid& unvacatable judgement/decree, decreeing the legal death of the'alleged escapee' Haslem (A.4) for all purposes under the law of the State of Ohio, when this judgement/decree (A.4) was rendered pursuant to the law (O.R.C. 2121.01 et. seq.) (A.6-11) by a court of competent jurisdiction, and the following cases support the fact that res-judicata must apply:

Kemp v Birmingham News Co. 608 F2d 1049-52

Continental Casualty Co. v Canadian Univers[illegible] Co. 605 F2d 1340-43

Morris v Jones, Ill. 1947. 67 S.Ct. 451

Petitioner-Appellant can envision no greater violation of the fundamental rights of citizen than to be incarcerated without due process of law & equal protection of law, as in this instant case, nor the refusal of the highest court of this state to utterly disregard the U.S. Constitution, Ohio Constitution, Ohio law, Ohio Common law, Ohio statute law 2121.01 (A.6-11) which was mandated into Ohio law by the Ohio General Assembly when that legislative bodies express purpose & intent in this laws enactment is specifically embodied in the unambiguous and clear language of this law. And the Ohio Supreme Ct. to utterly disregard the duly litigated & unvacatable court judgement/ decree (A.4) rendered pursuant to Ohio law, as the basis for that courts existance is to uphold the law.

1/see A-11-A

The General Assembly of the State of Ohio enacted the Presumed Decedents' Act, O.R.C. 2121.01 et. seq. (A. 6-11) and this law conferred judicial power upon the Courts of this state to render judgement/decrees pursuant to this law as the following supports:

> "a law that confers upon a court the authority to render a judgement or decree which shall be judicial settlement of the question in controversy, it is a law conferring judicial power:"
> State v Cox 87 OS 313, 101 NE 133

And the Presumed Decedents Act, O.R.C 2121.01 et. seq., is applicable to a person who has escaped from a state institution, as the following Ohio law supports:

> "Proceedings may be instituted under this section to have legally presumed dead an inmate of a state institution who has escaped and not been heard from for seven or more years...etc.
> 1934 OAG No. 3053 (Pg. 7)

On 6/6/78, the Common Pleas Ct. of Cuyahoga Cnty. Ohio rendered judgement/decree, declaring the alleged escapee Haslem, legally dead for all purposes under the law of this state (A.4), pursuant to statute law O.R.C. 2121.01 et. seq.

On 6/6/81, more than twelve years after the "alleged escapee" Haslem, was last seen or heard from, this judgement/decree was unvacatable under the statute law of Ohio 2121.08A(A10)

Petitioner-Appellant petitioned Ohio Supreme Ct. for writ of habeas corpus in which he alleged violations of his 5th & 14th amend. U.S. Const. rights, resulting from his illegal imprisonment by the warden of the prison where he is confined, but Ohio Supreme Ct. erroneously dismissed his petition (A.1) and by doing so that Ct. failed to uphold the law, O.R.C. 2121.01 et. seq & unvacatable judgement/decree (A.4) rendered pursuant to this law, and this erroneous dismissal contravenes the statute law enacted by the General Assembly of Ohio and Ohio Supreme Ct. must uphold this valid judgement as the following supports:

> "If the general assembly has power to enact a statute, question of its propriety or wisdom are not for the courts."
> Pohl v State, 102 OS 474
> Brinkman v Drolesbaugh, 97 OS 171

And Ohio Supreme Ct. by this erroneous dismissas (A.1) is in violation of Ohio Const. Art. II sec. 26., (Pg.5) which requires uniform operation of this law throughout this state.

Probably the most underlying importance of this instant

case: Bruce Thomas Phillips being held prisoner as: William John Haslem -v- Ronald C. Marshal Superintendant SOCF

is not that individual citizen is illegally imprisoned in Ohio.

But the far reaching, and profound implication is, that by Ohio Supreme Court's failure to uphold a valid court judgement/decree, and in this case, an unvacatable judgement/decree (A.4), it has rejected the basis of a free society, and that basis is law.

What is the purpose of any law, if it is not to be upheld?

What is the purpose of any constitution, if it is to be regarded only as a group of meaningless words , by courts?

What is the necessity of court judgements, if they are regarded as not worth the paper they are printed on by courts?

If this is the case, why in fact, do we even need courts ?

And what of the common law, which is the basis of all of our law, should that too, be scrapped?

Wherein then is the line drawn between a free society and an enslaved society? Is it one erroneous judgement, one hundered, or one hundered thousand erroneous judgements?

Our forebearers, the drafters of the U.S. Constitution gave us a clue as to where that line was drawn:

> "nor shall any person be deprived of life, liberty or property without due process of law."

In researching this case, Appellant came accross, in Federal Reporter 2d series, vol. 466, a memorium eulogy dedicated to the late Honorable J. Earl Major, Senior Circuit Judge of the 7th circuit U.S. Ct. of Appeals, delivered by Chief Judge Swigart of that circuit. Judge Swigart quoted the words of Judge Kenesaw Mountain Landis in characterizing Judge Major, and those words:

> "To him there was no more solemn thing than the entry of judgement taking from citizen his life, liberty or property."

In this instant case, Appellant Phillips was before the bar of justice in Ohio, The Ohio Supreme Court, with an unvacatable court judgement, and showed that court he was imprisoned illegally, as Haslem, the one sentenced for crime, is dead; and presented the unvacatable judgement to that court, of the legal death of William J, Haslem under Ohio law, and judgement of the Supreme Court of Ohio-dismissed, without opinion.

The legal death of a person under Ohio law must be taken exactly as the General Assembly intended, that he is legally dead for all purposes under the law of this state.

And in the case of "alleged escapee" Haslem, it means his legal death has the same effect as it would have as to that of any other person-in that his accrued assets & liabilities are cancelled, and when under the law of the State of Ohio O.R.C. 2121.01 et. seq. (A. 6-11) he has been legally decreed dead (A.4) by a court of competent jurisdiction, the state, through its agents, can not resurrect him for any purpose, when the decree of his death is unvacatable under the law of the State of Ohio O.R.C. 2121.08 A (A.10).

As the "alleged escapee" Haslem is legally dead, that person no longer legally exists under the law of Ohio, and the State of Ohio can not attqach jurisdiction to the Appellant for the liabilities of the legally dead "allegged escapee", and the Appellant Phillips is entitled to equal protection of the law & due process of law as guaranteed to him by the 5th & 14th amendments of the U.S. Constitution as the Appellant can not be the legally dead "alleged Escapee" Haslem, and he is being illegally detained in prison by the warden of the penitentiary where he is confined.

As the citizens of the State of Ohio must abide by the law of the state, so must the Supreme Court of Ohio abide by the law & uphold judgements rendered pursuant to the valid & constitutional law of the State of Ohio (A.4) as the Ohio Constitution mandates by Art. II sec. 26 (Pg.5) which requires that laws of "general nature" must have uniform operation throughout the state.

As a United States citizen, Petitioner-Appellant has unalienable rights guaranteed to him by the U.S. Constitution under the 5th & 14th amendments, which in part state:

> "nor be deprived of life, liberty, or property without due process of law."
>
> -and-
>
> "nor shall any state deprive to any person within its jurisdiction, due process of law, nor deny to any person equal protection of the law."

and these unalienable rights can not be abbriged, denied, or, in any way be violated by any state of this country.

But, Petitioner-Appellant, at this very moment, is illegally imprisoned in the State of Ohio in the name of a person William John Haslem, who, has been declared "legally dead, for all purposes under the law of the State of Ohio, when the U.S. Constitution stipulates that no citizen may be imprisoned without due process & equal protection of the law.

In The United States, the greatest of our citizens, The President of our nation, can be ejected from his office for the most insignificant of violation of law; because-

we are a country of law, and,

the law, in all cases, must be upheld,

even when it applies to the least significant of citizens, for

if the law is not upheld, we have nothing!

Petitioner-Appellant seeks plenary-appellate review for the erroneous dismissal by the Ohio Supreme Court for his Petition for Writ of Habeas Corpus for the injustice complained of, and humbly requests this Court to review the record, and the record will show, the invalid reasons for this dismissal, and the record will also show, extremely grave violations of the unalienable rights of a citizen of the United States, and when in violation of the 14th amendment of the U.S. Const. a state denies protection of these fundamental rights a case arises under the Constitution, laws, and treaties of the United States and it is the duty of the federal courts to

secure and protect those fundamental rights as required by Article 3 sec. 2, cl. 1 of the U.S. Constitution as the following supports:

> "Where constitutional rights are involved, it is duty of federal courts to secure their protection even though state courts may fail to do so in analogous situations.
> Goldman v Postal Telegraph, D.C. Del., 1943, 52 F.Supp 763

Respectfully submitted,

Bruce Thomas Phillips

Bruce Thomas Phillips Petitioner Appellant
Pro-Se & Forma Pauperis

being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio 45699-0001

SC-8 (BLANK ENTRY)

THE STATE OF OHIO,
City of Columbus.

19.82.. TERM

To wit: May 26, 1982

Bruce Thomas Phillips, aka William John Haslem,

Petitioner,

vs.

Ronald C. Marshall, Supt.,

Respondent.

No. 82-371

IN HABEAS CORPUS
ON MOTION TO DISMISS.

This cause originated in this court on the filing of a petition for a writ of habeas corpus and was considered in the manner prescribed by law. On consideration thereof, it is ordered by the court that the motion to dismiss be sustained and cause dismissed.

I, THOMAS L. STARTZMAN, Clerk of the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No.....Page.....

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Supreme Court this 26th *day of* May, *19* 82

THOMAS L. STARTZMAN *Clerk.*

By Laura D. Gilkins *Deputy.*

SC-18 BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

THE SUPREME COURT OF THE STATE OF OHIO

THE STATE OF OHIO,
City of Columbus.

19..82.. TERM

To wit: June 23, 1982

Bruce Thomas Phillips, a.k.a.
William John Haslem,
Petitioner,

vs.

Ronald C. Marshall, Supt.,
Respondent.

No. 82-371

REHEARING

It is ordered by the court that rehearing in this case is denied.

FOR YOUR
INFORMATION
ONLY
NOT FOR FILING

I, THOMAS L. STARTZMAN, of Clerk the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No.....Page.....

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Supreme Court this...23rd...day of.....June..... 19.82...

THOMAS L. STARTZMAN .....*Clerk.*

By.....*Deputy.*

SUPREME COURT OF OHIO

BRUCE THOMAS PHILLIPS
AKA
WILLIAM JOHN HASLEM

PETITIONER

V

RONALD C. MARSHALL
SUPERINTENDENT
SOUTHERN OHIO CORRECTIONAL
FACILITY

RESPONDENT

CASE NO. 82-371

NOTICE OF APPEAL

Notice is hereby given that BRUCE THOMAS PHILLIPS, Petitioner, above named, appeals to the SUPREME COURT OF THE UNITED STATES from the judgement/order of the SUPREME COURT OF OHIO, entered in this action on May 26, 1982, dismissing case 82-371.

Jurisdiction for the appeal to the SUPREME COURT OF THE UNITED STATES IS invoked under Title 28, United States Code, Section 1257 (1)

Respectfully Submitted,

Bruce Thomas Phillips

BRUCE THOMAS PHILLIPS
being held prisoner as:
William John Haslem #124-110
Box 45699
Lucasville, Ohio 45699-0001

PETITIONER
REPRESENTING HIMSELF
PRO-SE

Simon Karas
ASSISTANT ATTORNEY GENERAL
STATE OFFICE TOWER
30 EAST BROAD STREET
COLUMBUS, OHIO 43215

ATTORNEY FOR
RESPONDENT

FILED
JUN 28 1982
SUPREME COURT OF OHIO
THOMAS L. STARTZMAN, Clerk

PROOF OF SERVICE

I, the undersigned, Bruce Thomas Phillips, hereby certify that a copy of the foregoing petitioner's Notice of Appeal to the Supreme Court of the United States has been served on the Assistant Attorney General for the State of Ohio by placing same in the U.S. Mail, Postage prepaid, addressed to him at State Office Tower, 30 East Broad Street, Columbus, Ohio 43215, this 26 day of June 1982.

Bruce Thomas Phillips

Bruce Thomas Phillips
being held prisoner as:
William John Haslem #124-110
Box 45699
Lucasville, Ohio 45699-0001

STATE OF OHIO)
)
CUYAHOGA COUNTY)

IN THE COURT OF COMMON PLEAS
PROBATE DIVISION

Doc . 680. . . . .
No. . 881867. . .

FILED
JUN 6 1978
CUYAHOGA COUNTY O.

TERRENCE M. HASLEM)
Complainant and Plaintiff)
-vs-)
WILLIAM JOHN HASLEM)
Presumed Decedent and Defendant)
and)
EUGENE M. HASLEM)
Defendant)

JUDGMENT

JOUR 1202

692

JUN 6 - 1978

On this _____ day of _____, 1978, this matter came on for hearing on the complaint of Terrence M. Haslem, and in pursuance of the former order of the court, legal notice and service of summons, or waiver of service of summons having been given as required by law and said former order, and the court being fully advised in the premises from the exhibits and the evidence is satisfied that the legal presumption of death of William John Haslem is made out;

It is therefore ordered by the court that the death of William John Haslem presumed decedent, shall be regarded as having occurred on the 6th day of June, 1978, for all purposes under the law.

PROBATE JUDGE

The State of Ohio, } ss. IN THE PROBATE COURT
CUYAHOGA COUNTY } Division of the Court of Common Pleas

I, FRANCIS J. TALTY, Probate Judge and Ex-officio Clerk of the Probate Court, within and for said County, and in whose custody the Files, Journals and Records of said Court are required by the laws of the State of Ohio to be kept, hereby certify that the foregoing is taken and copied from Journal 1202 page 692 of the proceedings of said Court and that the same has been compared by me with the original entry on said Journal, and is a correct transcript thereof.

In Witness Whereof, I do hereunto subscribe my name and affix the seal of said Court this 2nd day of December, 19 81

Francis J. Talty Probate Judge

By Mary Ann Ohare Deputy Clerk

Doc. 880 No. 881867

Terrence M. Haslem
Complainant and Plaintiff
vs.
William John Haslem
Presumed Decedent and
Defendant and
Eugene H. Haslem, Defendant

CERTIFIED COPY OF SENTENCE

Revised Code Secs. 2949.12—2947.09—2947.23

At a term of the Court of Common Pleas, begun and held at the Court House in CLEVELAND within and for the County of CUYAHOGA and State of Ohio, on the 6th day of September A. D. 19 66

Present, the Hon. John M. Manos Judge.

In the Record and Proceedings of said Court, then and there had, among other things, is the following Judgment and Sentence, to-wit:

THE STATE OF OHIO

vs.

William John Haslem

Indictment for Murder 1st. Degree

R.C. 2901.01

The said William John Haslem having entered a plea of guilty for Murder Second Degree RC 2901.05, as to the Indictment.

~~Murder~~ guilty

It is therefore the sentence of the Court that he be imprisoned in the

PENITENTIARY

of this State, and kept at hard labor, (No part of said time to be kept in solitary confinement,) until legally discharged 124110

and that William John Haslem pay the costs of this prosecution, taxed at Eight hundred twenty-seven and 75/100-------($827.75)----------DOLLARS.

I CERTIFY the above to be a true copy of said Judgment and Sentence.

Dept 10-1-44

Given under my hand and the seal of said Court, this 27th day of October, 19 66

EMIL J. MASGAY, Clerk.

By A. Adamovich Deputy.

H.DS.

CC 30 751 3147-43

OHIO REVISED CODE 2121. ET. SEQ.,

PRESUMED DECEDENTS' LAW

SS 2121.01 (Presumption of death)
(A) Except as provided in division (B) of this section, a presumption of the death of a person arises:
(1) When the person has disappeared and been continuously absent from his place of last domicile for a five-year period without being heard from during the period;
(2) When the person has disappeared and been continuously absent from his place of last domicile without being heard from and was at the begining of his absence exposed to a specific peril of death, even though the absence has continued for less than a five-year period.
(B) When a person who is on active duty in the armed services of the United States has been officially determined to be absent in a status of "missing" or "missing in action," a presumption of death arises when the head of the federal department concerned has made a finding of death pursuant to the "Federal Missing Persons Act."
80 Stat. 625 (1966), 37 U.S.C. 551, as amended and hereafter amended.
History: v S 349 Eff 9-30-74.

SS 2121.02 (Proceddings in case of presumption of death)
(A) When such a presumption of death arises under section 2121.01 of the Revised Code with respect to a person who at the time of disappearance was domiciled in this state, the attorney general of this state or any person entitled under the last will of such presumed decedent ar under sections 2105.06 to 2105.21 of the Revised Code to any share in the presumed decedents property within this state, or any person or entity who, under the terms of any contract, beneficiary designation, trust, or otherwise, may be entitled to any property, right, or interest by reason of the death of the presumed decedent, may file a complaint setting forth the facts which raise the presumption of death in the probate court of the county of the presumed decedent's last residence.
(B) When a presumption of death arises pursuant to section 2121.01 of the Revised Code with respect to a person who at the time of his disappearance was domiciled at a place other than within the state, and the presumed decedent owns real property within this state, the complaint may be filed in the county where any part of the real property referred to in division (A) of this section, or by any domiciliary executor or administrator of the decedent. A foreign fiduciary shall include with the complaint an exemplified copy of the domiciliary proceedings pursuant to which the foreign fiduciary was appointed.
(C) In the case of a presumed decedent who was domiciled in this state, the complainant shall name as parties defendant the presumed decedent and each of the following that do not join in the complaint:
(2) All persons known to the complainant who are entitled under the presumed decedent's last will and all persons who are entitled under sections 2105.06 to 2105.21 of the Revised Code to any share of the presumed decedent's property.
(3) All persons or entities known to the complainant who have or would have by reason of the presumed decedent's death any right or interest under any contract, beneficiary designation, trust, or otherwise;
(4) All contract obligors known to the complainant whose rights or obligations would be affedted by a determination that the presumed decedent is in fact dead.
(D) In the case of a presumed decedent who was not domiciled this state but who owned real estate in this state, the complain- shall name as parties defendant each of the following that do not join in the complaint:

SS 2121.02 Cont'd.

(1) The presumed decedent's surviving spouse, if any;
(2) All persons known to the complainant who are entitled under the presumed decedent's last will and all persons who are entitled sections 2105.06 to 2105.21 of the Revised Code to any share of the presumed decedent's real property within this state.
(E) All parties defendant, other than the presmued decedent, shall be served with summons in the same manner as provided by the Rules of Civil Procedure.
(F) The complainant shall cause to be advertised once a week for four consecutive weeks in a newspaper published in the county, the fact that the complaint has been filed together with notice that on a day certain, which shall be at least four weeks after the last appearance of the advertisement, or after the final publication where any defendant is being served by publication, whichever is later, the probate court will hear evidence relevent to the allegations of the complaint.
(G) No guardian ad litem, trustee for the suit, or other representative shall be required to be appointed to represent the presumed decedent in the proceeding.
History: 135 v S 349. Eff 9-30-74.

SS 2121.03 (Probate court hearing)
At the hearing the probate court shall hear such legally admissable evidence as offered for the purpose of ascertaining whether the presumption of death is established. No person shall be disqualified to testify by reason of relationship as husband or wife to the presumed decedent, or by reason of an interest in the presumed decedent's property, or because of a right or interest under the terms of a contract, beneficiary designation, trust or otherwise, arising by reason of the death of the presumed decedent.
History: 135 v 349. Eff 9-30-74

SS 2121.04 (Date of decree; marriage dissolved.)
(A) If satisfied that a presumption of death has been established, as provided in section 2121.01 of the Revised Code, the probate court shall so decree.
(B) The death of such presumed decedent shall for all purposes under the law of this state be regarded as having occured as of the date of such decree.
(C) If the presumed decedent is married on the date of the decree the presumed decedent's marriage is dissolved by the decree, as provided in section 2121.08 of the Revised Code, shall affect the dissolution of the marriage.
History: 135 v. S 349. Eff. 9-30-74.

SS 2121.05 (Proceedings for probate of will.)
(A) Except as provided otherwise in Chapter 2121. of the Revised Code, all of the proceedings for the probate of the decedent's will, if any, and all the proceedings, domicilary or ancillary, for the administration of the decedent's estate that are set forth in the Revised Code for use upon the death of a decedent, shall upon the signing of the decree be instituted and carried on in the same manner as if the presumed decedent were in fact dead. All acts pursuant to these proceedings shall be as valid as if the presumed decedent were in fact dead.
(B) Following the decree the court may make such supplementary orders as in its discretion are necessary to consumate any right or interest arising by reason of the death of the presumed decedent under any contract, trust, or other non probate property interest of any person or entity who was a party to the proceedings.

SS 2121.05 Section B cont'd.

The court may condition the granting of any such order by requiring any person or entity who would benefit thereby to furnish bond for a three-year period after the decree in the form and amount, with or without sureties, as the court shall order. If any supplementary order is directed to the holder of assets of the presumed decedent which were created by the decree of presumed death, the court, at the request of the party defendant to whom the order is directed, shall condition the granting of any such order by requiring any person or entity who would benefit thereby to furnish a suretyship bond for a three-year period after the decree in the amount of the assets so created by the decree with interest for the period of the bond at the rate specified in the order.

(C) The term "assets" of the presumed decedent which were created by the decree of presumed death" as used in division (B) of this section and division (D) of section 2121.08 of the Revised Code, means those potential assets of the presumed decedent in which the presumed decedent had a contractual or other right, contingent upon the presumed decedent's death, to have such assets paid to his designee and the decree of presumed death would fulfill the contingency. Only that portion of the proceeds of life insurance policies on the life of the presumed decedent that exceeds any net cash surrender value of such policies on the date of the decree is within the definition of the term "assets of the presumed decedent which were created by the decree of presumed death."

(D) The bond shall provide that, if within the three-year period after the decree is entered by the court it is established that the presumed decedent is alive, such person or entity shall on the subsequent order of the court refund or return any sums, with interest as provided in the court order, or property received by virtue of such order, to the presumed decedent or to the person or entity who, by reason of erroneous finding of death of the presumed decedent made such payment or delivered such property. The bond shall be furthur conditioned on returning the fair value of the property if the same shall have been sold or otherwise disposed of in the interim.

(E) If the person or entity who would benefit by an order, as provided in division (B) of this section, fails to provide a bond for the amount of the assets of the presumed decedent which were created by the decree, with interest as specified in the order, the holder shall hold those assets for the three-year period they would have been bonded. In that event, the holder shall pay interest at the same rate specified in the order as a condition of the bond and the interest shall accumulate and be held throughout that period.

(F) Nothing in this section shall preclude such person or entity from selling, encumbering, or otherwise disposing of any property so received and any purchaser, transferee or mortgagee acquired good titles to such property free and clear of any claim of the presumed decedent.

History: 135 v S 349 Eff. 9-30-74.

SS 2121.06 (Decent of real estate.)
Upon signing of the decree establishing the death of the presumed decedent, the real estate of the presumed decedent passes and desolves as in the case of actual death and the persons entitled by will, or under sections 2105.01 to 2105.21 of the Revised Code, may enter and take possession. Persons taking the real estate may sell or mortgage it and the purchaser or mortgagee takes a good title, free and discharged of any interest or claim of the presumed decedent. The persons taking such real estate shall not sell, convey, or mortgage any part thereof within the three-year period specified in section 2121.08 of the Revised Code without first giving bond in an amount to be fixed by the probate court and with sureties to be approved by the court. In the discretion of the court the bond may be taken without sureties. Such bond shall be conditioned to account for and pay over to the presumed decedent, in case within the three-year period after the decree is entered by the court it is established that the presumed decedent is still alive, the value of the real estate sold or conveyed, or in the case of the making of a mortgage, to pay the amount of the mortgage and interest thereon, or in case of a foreclosure of such mortgage, to account for and pay over the value of the real estate mortgaged.
History: 137 v S 112 Eff. 11-1-77.

SS 2121.07 (Bond required for estate distribution)
(A) Before any distribution of personal property is made from the estate of a presumed decedent, the persons entitled to receive such property may in the discretion of the court and as a condition of distribution be required to give bond in the form and amount, with or without sureties, as the court orders, with the condition that if within a three-year period after the decree is entered by the court it is established that the presumed decedent is alive, the distributee will upon subsequent order of the court refund or return the property to the presumed decedent, or the fair market value of property of the same shall have been sold or otherwise disposed of in the interim.
(B) Nothing in this section shall preclude a distributee from selling, encumbering, or otherwise disposing of any property so distributed and any purchaser, transferee, or mortgagee acquires good title to such property free and clear of any claim of the presumed decedent.
History: 135 v S 349 Eff. 9-30-74.

SS 2121.08 (Administration of estate when decree vacated.)
(A) The probate court may at any time within a three-year period from the date of the decree establishing the death of a presumed decedent, upon proof satisfactory to the court that the presumed decedent is in fact alive, vacate the decree establishing the presumption of his death. After the decree has been vacated all the powers of the executon or administrator of the presumed decedent cease, but all proceedings had and steps taken with respect to the administrator of the presumed decedent prior to the vacating of such decree remain valid. The executor or administrator of the estate of such presumed decedent who is found to be alive shall settle his account of his administration down to the time of the vacating of the decree and shall transfer all assets remaining in his hands to the person as whose executor or administrator he has acted, or to such person's authorized agent or attorney.
(B) The title of any person to any money, property, right, or interest as surviving spouse, next of kin, heir, legatee, devisee, co-owner, with right of survivorship, beneficiary or other contractual payee, successor to a trust interest, or otherwise of the presumed decedent shall be subject to this section, and upon vacating of such decree as provided in this section any property, money, right, or interest, or the fair value thereof if the same shall have been sold or otherwise disposed of, may be recovered from the person who had received any such property.
(C) Except as provided in division (D) of this section, in any action against a beneficiary for the recovery of property of the value thereof, or upon the bond given as conditioned for delivery of money, other personal property, or sale or encumbrance of real property the beneficiary may set off as against such claim, an allowance for services rendered in maintaining of the property, and for any moneys or other considerations made or given by the beneficiary for the preservation, care, or maintenance of the property during the period of absence of the person erroneously presumed to be dead, and the reasonable value of any part of the property used for support by those whom the person erroneously presumed to be dead had a legal obligation to support during his absence.
(D) There shall be no set off as against those assets defined in division (C) of section 2121.05 of the Revised Code to be assets of the presumed decedent which were created by the decree of presumed death shall be returned with interest to the person entitled thereto.
(E) Any net cash surrender value on any policies of life insurance on the life of a person erroneously presumed to be dead are subject to the set off provision in division (C) of this section. The person erroneously presumed to be dead, or persons claiming under him, may recover whatever remains of cash values from the person to whom paid. Such claimants have no recourse against the insurance company which made such payments, and it is discharged from liability on the policies affected.
History: 137 v S 112 Eff. 11-1-77.

2121.09 (Presumed decedent may be substituted as plaintiff or defendant.)

After vacation of the decree of the presumption of death has been established, as provided by section 2121.08 of the Revised Code, the person erroneously presumed to be dead may, on motion filed of record stating the facts, be substituted as plaintiff or petitioner in all actions or proceedings brought by the executor or administrator, whether prosecuted to judgement or decree or otherwise. Such person may, in all actions or proceedings previously brought against the executor or administrator, be substituted as defendant or respondent, on motion filed by him or on his behalf, but shall not be compelled to go to trial in less than three months from the time of filing of such motion. Judgements or decrees recovered against the executor or administrator, before the vacation of the decree, may be opened on application made by the person erroneously presumed to be dead within three months after the vacating of the decree, provided it is supported by an affidavit alleging the existance of facts which would be a valid defense. If the application is not made within the three months or is made but the supporting alleged facts are adjudged an insufficient defense, the judgement or decree is conslusive to all intents, saving the defendant's right to review as in other cases on appeal.

History: 135 v S 349. Eff 9-30-74.

The judgement/decree (A.4) decreeing the legal death of William John Haslem for all purposes under Ohio law is prime facie evidence of the legal death of that person as the following supports:

Under Ohio Revised Code sec. 2121.04 A (A.7)

> "If satisfied that a presumption of death has been established, as provided in sec. 2121.01 of the Revised Code the probate court shall so decree."

On 6/6/78 a legal presumption of death of William John Haslem had been established under Ohio law, and the Common Pleas Ct. of Cuyahoga Cnty. so decreed (A.4)

Under Ohio Revised Code sec. 2121.04 B (A.7)

> "The death of such presumed decedent shall for all purposes under the law of this state be regarded as having occurred as of the date of such decree."

The judgement/decree (A.4) clearly states that William John Haslem is dead for all purposes under the law.

Under Ohio Revised Code sec. 2121.05 A (A.7)

> "All acts pursuant to these proceedings shall be as valid as if the presumed decedent were in fact dead."

The judgement/decree, decreeing the legal death of William John Haslem (A.4) for all purposes under the law of Ohio, was an act pursuant to the proceedings in the Cuyahoga Cnty. Common Pleas Court which the legal presumption of the death of that person was established.

Under Ohio Revised Code sec. 2121.08 A (A.10)

> "The probate court may at any time within a three/year period from the date of the decree establishing the death of a presumed decedent, upon proof satisfactory to the court that the presumed decedent is in fact alive, vacate the decree establishing the presumption of his death."

The judgement/decree, decreeing William John Haslem legally dead for all purposes under the law of the state of Ohio (A.4) was unvacatable as of 6/6/81.

As the above shows, the judgement/decree, decreeing William John Haslem legally dead, (A.4) is final and unvacatable, and as such, is PRIME FACIE evidence of the legal death of William John Haslem, and this judgement/decree (A.4) is res judicata as the following supports:

Morris v Jones, Ill., 1947, 67 S.Ct. 451

> "a judgement of court having jurisdiction of parties and subject matter operates as res judicata, in absence of fraud or collusion, even if obtained upon default.

CHAPTER 2725
HABEAS CORPUS

2725.01 Persons entitled to writ of habeas corpus.
Whoever is unlawfully restrained of his liberty, or entitled to the custody of another, of which custody such person is unlawfully deprived may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment, restraint, or deprivation.

2725.02 Courts authorized to grant writ.
The writ of habeas corpus may be granted by the supreme court, court of appeals, court of common pleas, probate court, or by a judge of any such court.

2725.03 Jurisdiction for production or discharge of inmate of institution.
If a person restrained of his liberty is an inmate of a state benevolent or penal institution, the location of which is fixed by statute, and at the time is in the custody of the officers of such institution, no court or judge other than the courts or judges of the county in which such institution is located has jurisdiction to issue or determine a writ of habeas corpus for his production or discharge. Such writ issued by a court or judge of another county to an officer or person in charge of another county to an officer or person in charge at such state institution to compel the production or discharge of an inmate thereof is void.

2725.04 Application for writ.
Application for the writ of habeas corpus shall be by the petition, signed and verified either by the party for whose relief it it intended, or by some person for him, and shall specify:
(A) That the person in whose behalf the application is made is imprisoned, or restrained of his liberty;
(B) The officer, or name of the person by whom the prisoner is so confined or restrained; or, if both are unknown or uncertain, such officer or person may be described by an assumed appellation and the person who is served with the writ is deemed the person intended;
(C) The place where the prisoner is so imprisoned or restrained, if known;
(D) A copy of the commitment or cause of detention of such person shall be exhibited, if it can be procured without impairing the effeciency of the remedy; or, if the imprisonment or detention is without legal authority, such fact must appear.

2725.05 Writ not allowed.
If it appears that a person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or magistrate, or by virtue of the judgement or order of the court of record, and that the court or magistrate had jurisdiction to issue the process, render the judgement, or make the order, the writ of habeas corpus shall not be allowed. If the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgement, or order.

2725.06 Writ must be granted.
When a petition for a writ of habeas corpus is presented, if it appears that the writ ought to issue, a court or judge authorized to grant the writ must grant it forthwith.

2725.07 Clerk shall issue writ.
When a writ of habeas corpus is granted, the clerk of the court which granted the writ shall forthwith issue said writ under the seal of such court. In case of emergency, the judge who allowed the writ may issue it under his own hand, and députe any officer or other person to serve it.

2725.08 Designation of prisoner.
Ther person to be produced upon a writ of habeas corpus shall be designated by his name, if known, and if his name is not known, or is uncertain, such person may be described in any other way so as to ma ke known who is intended.

2725.09 Requisites of writ.
In case of confinement, imprisonment, or detention of a person by an officer, a writ of habeas corpus shall be directed to him, and command him to have such person before the court or judge designated in the writ, at a time and place therein specified.

2725.10 Form of writ when prisoner not in custody of an officer.
In case of confinement, imprisonment, or detention by a person not an officer, the writ of habeas corpus, shall be in the following form:

The State of Ohio, _____ County, ss.:
To the sheriff of our several counties, Greeting:
We command you that the body of _____ of _____, by _____, of _____, imprisoned and restrained of his liberty, as it is said, you take and have before _____ a judge of our _____ court, or, in the case of his absence or disability, before some other judge of the same court, at _____, forthwith to do and receive what our said judge shall then and there consider _____ concerning him in his behalf; and summon the said _____ then and there to appear before our said judge, to show the cause of the taking and detention of said _____.
(SEAL) Witness _____, at _____, this _____ day of _____, in the year _____.

2725.11 Service of writ.
The writ of habeas corpus may be served in any county by the sheriff of that or any other county or by a person deputed by the court or judge issuing the writ.

2725.12 Execution and return of writ.
The officer of person to whom a writ of habeas corpus is directed shall convey the person im-prisoned or detained, and name in the writ, before the judge granting the writ, or, in case of his absence or disability, before some other judge of the same court, on the day specified in the writ. Said officer or person shall make due return of the writ, together with the day and the cause of the caption and detention of such person, according to its command.

2725.13 Return of writ to another judge.
When a writ of habeas corpus is issued by a court in session, if the court has adjourned when the writ is returned, it shall be returned before any judge of the same court. When the writ is returned before one judge, at a time when the court is in session, he may adjourn the case into the court, there to be heard and determined.

2725.14 Contents on the return.
When the person to be produced under a writ of habeas corpus is imprisoned or restrained by an officer, the person who makes the return shall state therein, and in other cases the person in whose custody the prisoner is found shall state, in writing, to the court or judge before whom the writ is returnable, plainly and unequivocally:
(A) Whether or not he has the prisoner in his custody or power or under restraint.
(B) If the prisoner is in his custody or power or under restraint, he shall set forth, at large, the authority, and the true and whole cause, of such imprisonment and restraint, with a copy of the writ, warrant, or other process upon which the prisoner is detained.
(C) If such prisoner was in his custody or power or under restraint, and such custody or restraint was transferred to another, he shall state particularly to whom, at what time, for what cause, and by what authority such transfer was made.

2725.15 Return must be signed and sworn to.
The return or statement referred to in section 2725.14 of the revised code shall be signed by the person who makes it, and shall be sworn to by him, unless he is a sworn public officer and makes the return in his official capacity.

2725.16 Continuance of cause.
The court or judge to whom a writ of habeas corpus is returned, or the court into which it is adjourned, for good cause shown, may continue the cause, and, in that event, shall make such order for the safe keeping of the person imprisoned or detained as the nature of the case requires.

2725.17 Discharge of prisoner.
When the judge has examined the cause of caption and detention of a person brought before him as provided in section 2725.12 of the revised code, and is satisfied that such person is unlawfully imprisoned or detained, he shall forthwith discharge such person from confinement. On such examination, the judge may disregard matters of form or technicalities in any mittimus or order of confinement by a court or orricer authorized by law to commit.

2725.18 Prisoner may be committed or let to bail.
When the person brought before a judge under section 2725.12 of the revised code is confined or detained in a legal manner on a charge of having committed a crime or offense which is bailable, the judge may recommit him or let him to bail. If such person is let to bail, the judge shall require him to enter into a recognizance, with sufficient surety, in such sum as the judge finds reasonable, after considering the circumstances of the prisoner and the nature of the offence charged, and conditioned for his appearance at the court where the offence is properly cognizable. The judge forthwith shall certify his proceedings, together with any recognizance, to the proper court. If the person charged fails to give such recognizance, he shall be committed to prison by the judge.

2725.19 Mandatory committment for capitol offence.
If a prisoner brought before a judge under section 2725.12 of the revised code was committed by a judge, and is plainly and specifically charged in the warrant of committment with a felony the punishment for which is capitol, he shall not be removed, discharged, or let to bail.

2725.20 Return as evidence or pledge.
If a prisoner brought before a judge under section 2725.12 of the revised code is in custody under a warrant or committment in pursuance of law, the return of the writ of habeas corpus is prima facie evidence of the cause of detention. If such prisoner is restrained of his liberty by alleged private authorisy, the return is only a plea of the facts therein set forth, and the party claiming the custody shall be held to make proof of such facts. Upon the final disposition of a case, the court or judge shall make such order as to costs as it requires.

2725.21 Forfeiture by clerk for refusal to issue writ.
A clerk of a court who refuses to issue a writ of habeas corpus, after an allowance of such writ and a demand therefore, shall forfeit to the party aggrieved the sum of five-hundered dollars.

2725.22 Failure to obey writ.
No person to whom a writ of habeas corpus is directed shall neglect or refuse to obey or make return of it according to the command thereof, or make a false return or upon demand made by the prisoner, or by any person on his behalf, refuse to deliver to the person demanding, within six hours after demand therefore, a true copy of the warrant of committment and detainer of the prisoner.
Whoever violates this section shall forefit to the party aggrevied two-hundered dollars for a first offence; for a second offence such person shall forefit four-hundered dollars, and, if an officer, shall be incapable of holding his office.

2725.23 Persons at large upon writ not to be again imprisoned.
A person who is set at large upon a writ of habeas corpus shall not be imprisoned again for the same offence, unless by the legal order or process of the court in which he is bound by recognizance to appear, or other court having jurisdiction of the cause or offence.
No person shall knowingly, contrary to sections 2725.01 to 2725.28, inclusive, of the revised code, recommitt, imprison, or cause to be recommitted or imprisoned, for the same offence, or pretended offence, a person so set at large, or knowingly aid or assist therein.
Whoever violates this section shall forefit to the party aggrieved five-hundered dollars, notwithstanding any colorable pretense or variation in the warrant or committment.

2725.24 Prisoner shall not be removed from custody of one officer to another.
A person committed to prison, or in the custody of an officer for a criminal matter, shall not be removed therefrom into the custody of another officer, unless by legal process, or unless the prisoner is delivered to an inferior officer to be taken to jail, or, by order of a proper court, is removed from one place to another within this state for trial, or in case of fire, infection, or other necessity.
A person who, after such committment, makes, signs, or countersigns a warrent for such removal contrary to this section, shall forfeit to the party aggrieved five-hundered dollars.

2725.25 No prisoner to be sent out of state.
No person shall be sent as a prisoner to a place out of this state, for a crime or offence committed within it.
A person imprisoned in violation of this section may maintain an action for false imprisonment against the person by whom he was so imprisoned or transported and against a person who contrives, writes signs, seals, or countersigns a writing for such imprisonment or transportation, or aids or assists therein.

2725.26 Record of writs.
The proceedings upon a writ of habeas corpus must be recorded by the clerk of the court in which such proceedings were had, and may be reviewed on appeal as in other cases.

2725.27 Recovery of forfeitures; limitations.
The forfeitures mentioned in sections 2725.21 to 2725.24, inclusive, of the revised code, may be recovered by the party aggrieved or his executors or administratiors against the offender or his executors or administrators by civil action in a court having cognizance thereof.
Actions for violations of sections 2725.21 to 2725.25, inclusive, of the revised code, shall be brought within two years after the offence is committed, except in cases of imprisonment of the party aggrieved, when action may be brought within two years after his delivery out of prison, or after his decease if he dies in prison.

2725.28 Fees and costs.
The fees of officers and witnesses shall be taxed by the judge, on return of the proceedings on a writ of habeas corpus, and collected as a part of the original cost in the case. When the prisoner is discharged, the costs shall be taxed to the state, and payed out of the county treasury, upon the warrant of the county auditor. No officer or person shall demand payment in advance for any fees to which he is entitled by virtue of the proceedings, when the writ is demanded or issued for the discharge from custody of a person confined under color of proceedings in a criminal case. When a person in custody by virtue or under color of proceedings in a civil case is discharged, costs shall be taxed against the party at whose instance he was so in custody. If he is remanded to custody, costs shall be taxed against him.

IN THE SUPREME COURT OF THE UNITED STATES

Bruce Thomas Phillips being held prisoner as William John Haslem — Petitioner Appellant

-v-

Ronald C. Marshall, Supreintendent, Southern Ohio Correctional Facility — Respondent Appellee

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Petitioner Appellant, Bruce Thomas Phillips, being held prisoner in the name of William John Haslem, asks leave to file the attached jurisdictional statement without prepayment of costs and to proceed in forma pauperis. Petitioner-Appellant has not previously requested leave to proceed so in the Ohio Supreme Court.

Petitioner-Appellant's affidavit in support of this mation is attached hereto.

Bruce Thomas Phillips

Bruce Thomas Phillips

AFFIDAVIT

I, Bruce Thomas Phillips, being first duly sowrn according to law, depose and say that I am the petitioner-Appellant in the above case; that in support of my motion to proceed without being required to prepay fees, costs, or give security therefor; I state that because of my poverty, I am unable to pay the costs of said case or to give security therefor; and that I believe I am entitled to redress.

I further swear that the responses which I hame made to the questions and instructions below relating to my ability to pay the costs of proceeding in this court are true.

1. Are you presently employed. No. I am a church minister of God and Christ and at the time of my arrest on 7/10/81 my occumpation was as such & I worked for no wages or salary.

2. Have you received within the past twelve months any income, from a business, profession, or other form of self-employment, or in the form of rent payments, interest, dividends, or other source? No. I have received no income from any source.

3. Do you own any cash or checking or savings account? Yes, only the monies on deposit in my prison account in the amount of $29.44.

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings, and clothing)? No.

5. List the persons who are dependent upon you for support and state your relationship to those persons. None.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Bruce Thomas Phillips

Bruce Thomas Phillips
Pro-Se & Forma Pauperis

W. J. Haslem

being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

Subscribed and Sworn to Before me this 20 day of July 1982

Paul R. Adams

Notary Public
PAUL R. ADAMS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES MAY 23, 1983

NOTARIAL SEAL
STATE OF OHIO

(I was required to affix the name W. J. Haslem to this document against my wihhes

Bruce Thomas Phillips

A16

W. J. Haslem
124110

WARDENS CERTIFICATE

Inmate William John Haslem #124-110 has in his personal account at Southern Ohio Correctional Facility the amount of $79.44, this 20 day of July 1982

SWORN AND SUBSCRIBED BEFORE ME THIS: 7-20-1982

Authorized officer

PAUL N. ADAMS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES MAY 23, 1983

NOTARIAL SEAL
STATE OF OHIO

(I was required to affix the name W. J. Haslem to this document against my wishes

A 17

Bruce Travis Phillips

RECEIVED
SEP 13 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Clerk of The Court
Supreme Court of The United States
1 First Street N.E.
Washington, D.C. 20543

September 7, 1982

RE: Case # 82-5105

Attention Clerk of The Court

Dear Sir;

Should, after the Court considers my jurisdictional statement, the Court either note or postpone probable jurisdiction, I request that I be permitted to submitt my own BRIEF ON THE MERITS in accordance with Rule 46.6 and if an attorney is assigned for oral argument, such attorney be permitted to only supplament my brief and not delete any part thereof unless I authorize any deletions in writing.

Also, after consideration of the jurisdictional statement, the Courrt either notes or postpones jurisdiction and sees fit to assign an attorney to me for oral argument, I humbly request that the attorney not come from Ohio. Kentucky or West Virginia would be great or any other place. I understand I have no choice in this matter, this is just a request. I will be sincerely greatful for whatever consideration the Court deems fit.

Enclosed please find a copy of the letter which I sent to the Clerk of The Ohio Supreme Court requesting CERTIFICATION & TRANSMISSION of the entire Record to this court for consideration along with the jurisdictional statement. I feel that it is absolutely necessary and essential for a proper understanding of this case when the court considers the merits of the jurisdictional statement. I have made the request for cert. & transmission pursuant to Rule 13.1 of this courts rules, however, I am proceeding prose & forma pauperis and my motion to proceed under forma pauperis has not yet been granted by the court and because I have not yet been granted leave to proceed in forma pauperis the Ohio Supreme Ct. may not certify & transmitt the record, and my case may be prejudiced as a result-as I deem it absolutely essential that the court have before it the complete record from below in its consideration of the jurisdictional statement.

I would be greatful if you could urge Ohio Supreme Ct. Clerk to Certify & transmit the entire record..

Respectfully,
Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner/Appellant Pro/Se & Forma Pauperi
being held prisoner as:
William John Haslem #124-110
Box 45699
Lucasville, Ohio 45699-0001

The Clerk of The Court
Ohio Supreme Court
State Office Tower
30 East Broad Street
Columbus, Ohio 43215

Sept 7, 1982

Re: CERTIFICATION & TRANSMISSION
of the entire record in:
OHIO SUPREME CT. CASE# 82-371
which was docketed on 3/8/82

REQUEST FOR TRANSMISSION
OF ENTIRE RECORD TO THE
SUPREME COURT OF THE
UNITED STATES

To:

Clerk of The Court
Supreme Court of the United States
1 First St. N.E.
Washington, D.C. 20543

to be filed in U.S. S. Ct.
along with the other papers in
case # 82-5105

Phillips- Appellant
-v-
Marshall- Appellee

Attention Clerk of The Court

Dear Sir;

Please certify & transmit the entire record in Ohio Supreme Court Case # 82-371 to the Clerk of the Court, Supreme Ct. of The U.S, for filing in that courts case # 82-5105.

I am the appellant & am proceeding pro-se & forma pauperis on appeal in the above case in the U.S. Supreme Ct., and the entire record is absolutely essential for the proper understanding of the case by the U.S. Supreme Ct. in considering the jurisdictional statement.

The jurisdictional statement was filed along with the motion for leave to proceed in forma pauperis as prescribed under 28 USC 1915 in the U.S. Supreme Ct. and docketed on July 23, 1982 as case # 82-5105 in the United States Supreme Ct.

The entire record will consist of:

1. The original petition for writ of habeas corpus.
2. Motion for leave to proceed in habeas corpus on type-written forms & carbon copies.
3. Petitioners Motion to Dispense with requirement of presentation of evidence.
4. Respondent Marshall's Motion to Dismiss.
5. Petitioner's Brief in opposition to respondent's Motion to Dismiss.
6. Order of Dismissal of case # 82-371.
7. Petitioner's Motion to Reconsider.
8. Order dismissing Motion for rehearing.
9. Copy of Notice of Appeal.

The entire record is absolutely essential for the proper understanding of the case by the U.S. Supreme Ct. in considering the jurisdictional statement and would gladly pay for your service of certification and transmission but as my funds are exhausted, I cannot do so and I have had to proceed on appeal in forma pauperis.

Respectfully,
Bruce Thomas Phillips
Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

being held prisoner at:
William John Haalem #124-110
Box 45699
Lucasville, Ohio, 45699-0001

COPY OF LETTER SENT TO CLERK OF THE COURT OF THE OHIO SUPREME COURT

PROOF OF SERVICE

I Bruce Thomas Phillips swear, under penalties of perjury, that I have sent copies of this letter to: Simon B. Karas, Attorney for the Respondent addressed to him at State office Twr. 26th flr. 30 E. Broad St, Columbus, Ohio 43215 (CONT'D ON BACK)

PROOF OF SERVICE CONT'D

and, The Clerk of The Court
Supreme Court of The United States
1 First St. NE
Washington, D.C. 20543
by placing copies of this letter in a envelope, addressed to them, with first class postage-pre-paid, and depositing same in the United States Mails at Lucasville, Ohio on this 8 day of September, 1982.

Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

No. 82-5105

RECEIVED
JUL 23 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

BRUCE THOMAS PHILLIPS
BEING HELD PRISONER IN NAME OF:
WILLIAM JOHN HASLEM — Petitioner Appellant

v

RONALD C. MARSHALL
SUPERINTENDANT
SOUTHERN OHIO CORRECTIONAL
FACILITY — Respondent Appellee

ON APPEAL FROM THE SUPREME COURT OF OHIO

MOTION FOR LEAVE TO PROCEED ON APPEAL ON TYPE-WRITTEN FORMS

William J. Brown
Attorney General

Simon B. Karas
Assistant Attorney General
State Office Tower, 26th Flr.
30 East Broad Street
Columbus, Ohio 43215
614/466-5414

Attorney For Respondent

Bruce Thomas Phillips
being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

Petitioner Appellant
Representing Himself
Pro-Se & Forma Pauper

Comes the Petitioner-Appellant, Bruce Thomas Phillips and moves this Court for leave to proceed on this appeal on type written forms pursuant to this Courts Rule 46.3.& 39

Appellant, in support of this motion, represents that he is unable, due to his poverty and inprisonment, to have his briefs and other papers printed in standard form as required by the Rules of this Court.

Respectfully submitted,

Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

being held prisoner as
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

No._____

RECEIVED
JUL 23 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

Bruce Thomas Phillips — Petitioner-Appellant
Being held prisoner as:
William John Haslem

-v-

Ronald C. Marshall — Respondent-Appellee
Superintendant
Southern Ohio Corrictional
Facility

ON APPEAL FROM THE SUPREME COURT OF OHIO

MOTION TO DISPENSE WITH REQUIREMENT OF COLORED COVERS

William J. Brown
Attorney General

Simon B. Karas
Assistant Attorney General
State Office Tower 26th Flr.
30 East Broad Street
Columbus, Ohio 43215
614/466-5414

Attorneys for Respondent

Bruce Thomas Phillips
Being held prinsoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio 45699-0001

Petitioner Appellant
Pro-Se & Forma Pauperis

Comes the Petitioner-Appellant and requests this court to dispense with the requirement under rule 33.2 (b) to have colored covers attached on documents submitted to this court.

Memorandum in Support

Petitioner-Appellant due to his poverty and imprisonment and the unavailiability of colored paper at the prison where he is confined motions this court to grant his request to dispense with requirement of colored covers on his documents submitted to this court by him as required under rule 33.2 (b) and he be permitted to use white paper as covers to documents he submitts.

Petitioner-Appellant so prays this court that his Motion to Dispense With Colored Covers be granted by this court.

Respectfully submitted,

Bruce Thomas Phillips

Bruce Thomas Phillips
Being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

No. 82-5105

RECEIVED
SEP 2 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

BRUCE THOMAS PHILLIPS
BEING HELD PRISONER AS:
WILLIAM JOHN HASLEM — Petitioner-Appellant

-v-

RONALD C. MARSHALL
SUPERINTENDANT
SOUTHERN OHIO CORRECTIONAL
FACILITY — Respondent-Appellee

ON APPEAL FROM THE SUPREME COURT OF OHIO

APPELLANT'S SUPPLEMENTAL BRIEF TO EXPAND ARGUMENT ON WHY QUESTIONS PRESENTED FOR REVIEW ARE SO SUBSTANTIAL AS TO REQUIRE PLENARY REVIEW TO INCLUDE OHIO CONSTITUTION ARTICLE I ss 18 AS THIS CONSTITUTIONAL PROVISION WAS NOT INCLUDED IN JURISDICTIONAL STATEMENT ARGUMENT ON THE QUESTIONS PRESENTED

William J. Brown
Attorney General

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Attorneys for Respondent

Bruce Thomas Phillips
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William John Haslem
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45699-0001

Petitioner-Appellant
Pro-Se & Forma Pauperis

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" " " 5 (J.S. Pg. 4)	4,5,6,
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U. S. CONSTITUTIONAL ISSUES INVOLVED

5th amendment; due process of law: (J.S. Pg. 4)

14th " : equal protection of the law: (J.S. Pg. 4)

AMEND CONSTITUTIONAL PROVISIONS AND STATUTES THAT THIS CASE INVOLVES TO INCLUDE:

Ohio Constitution Article 1 ss 18:

"No power of suspending laws shall ever be exercised, except by the general assembly."

****

To expand argument on STATEMENT OF WHY QUESTIONS PRESENTED FOR REVIEW ARE SO SUBSTANTIAL AS TO REQUIRE PLENARY CONSIDERATION

To include Article I ss 18 of Ohio Constitution provision for consideration of appellant's jurisdictional statement.

MEMORANDUM TO SUPPORT

The General Assembly of Ohio enacted O.R.C. 2121.01 et. seq. (J.S. A. 6-11) which is called the Ohio'Presumed Decedents Law.' Under this law, The State of Ohio, through it's Cuyahoga County Court of Common Pleas decreed William John Haslem, "the alleged escapee" legally dead for all purposes under the law of this state on June 6, 1978 (J.S. A.4)

Appellee's Motion to Dismiss, on which Ohio Supreme Ct. dismissed Appellants petition for writ of habeas corpus (J.S. A. 1) from which this appeal is taken, states on Pg. 3 (R) of his motion that the law in this case should be deemed repealed: however; Ohio Constitution Art. I ss 18 sets forth:

"No power of suspending laws shall ever be exercised, except by the general assembly."

and the following case law supports, Ohio laws will not be nullified:

"The legislative judgement as to the public need will not be nullified except when it clearly appears that there has been a gross abuse of such discretion in undoubted violation of some state or federal constitutional provision: Williams v Scudder, 102 OS 305, 131 NE 481 (affirming judgement of court of appeals which affirmed, 31 OD (NP) 169, 65 Bull 139 (Ed)

By dismissing appellants petition for writ of habeas corpus (J.S. A.4), Ohio Supreme Ct. has suspended & nullified O.R.C. 2121.01 (J.S. A 6-11) when this law is made DIRECTLY APPLICABLE to an inmate of a state institution who has escaped and not been heard from for seven or more years by OAG No. 3053 (J.S. Pg. 7) in violation of Ohio Constitution Article I ss 18, and in doing

so Ohio Supreme Ct. has deprived appellant of equal protection of law in violation of amendment 14 of the U.S. Constitution (J.S.Pg4)

> "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protedtion of the laws."

when equal protection of the law is a fundamental right of appellant as guaranteed by the 14th amendment of the U.S. Constitution.

At the same time in appellees Motion to Dismiss R. Pg. 3, he acknowledges that the death decree of William John Haslem is in fact valid, but petitioner should avail himself of Ohio's POST CONVICTION LAWS, and submit the death decree as "NEW EVIDENCE," Evidence which Haslem could not present at the time of his trial in 1966, and that habeas corpus was not the correct remedy that petitioner should use.

Appellant, in his Brief in Opposition to Respondent's Motion To Dismiss (R. Pg.3) clearly states that he has nothing to do with the sentence of Haslem, nor is appellant concerned whether or not sentence of Haslem is terminated or not. Appellant is not challenging the sentence of Haslem (J.S. A. 5) and habeas corpus is the only remedy that is availibble to appellant:

> "Since Ohio Post Conviction procedure by its terms applies only to persons challenging convictions or judgements, habeas corpus remains the remedy availiable for persons challenging the legality of their confinement before convictions, and for persons challenging their confinement on grounds unrelated to conviction."
> Knox v Maxwell, 13 Misc. 85, 227 F. Supp 593 (1967)

The 'Ohio Presumed Decedents Law" O.R.C. 2121.01 (J.S. A. 6-11) is a law of general nature and must have uniform operation throuought the state of Ohio as the following supports:

> "All laws or parts of laws relating to the jurisdiction of the common pleas court are laws of a general nature and must have uniform operation throughout the state."
> D'Alton v Ritchie, 97 OS 41, 119 NE 124

Ohio Constitution Article I ss 18 requires that this law may not be suspended, except by the general assembly, Article II sec 26 of Ohio Constitution mandates that this law must have uniform operation throuought the state (J.S. Pg. 5) and the Supreme Ct. of Ohio, in dismissing appellants petition for writ of habeas corpus (J.S. A.I) failed to uphold the law of Ohio and the judgement decree, decreeing William John Haslem legally dead for all purposes under the law of this state, issued by The State of Ohio, through it's Cuyahoga Cnty. Common Pleas Ct. in violation of Ohio Const. Art. II sec. 26 which mandated that this law have uniform operation as the following supports:

"A statute is general and uniform within the requirements of the constitution, if it operates equally upon every person and locality within the circumstances covered by the act, and when a classification has a reasonable basis it is not invalid merely because not made with exactness or because in practice it may result in some inequality."
Trustees v Hopkins, 91 OS 74, 109 NE 629
Steele, Hopkins & Co. v Miller, 92 OS 115
Cleveland v Davis, 95 OS 52
Xenia v Schmidt, 101 OS 437

By dismissing appellants petition for habeas corpus (J.S. A.1) Ohio Supreme Ct. violated Article II sec. 26 of Ohio Const. (J.S. A4) by failing to give this law uniform operation and suspending this law in violation of Ohio Constitution Article I ss 18 which mandates that only the general assembly may suspend Ohio laws, and by doing so the Ohio Supreme Ct. denied equal protection of the laws of Ohio to the appellant in violation of the 14th amendment of the U.S. Const. and in violation of the fundamental right of the appellant to equal protection of law as guaranteed by the 14th amend. of the U.S. Const.

"Nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

States have a broad power when it comes to making classifications, and the U.S. Supreme Ct. has recognised this power in:

Ferguson v Skrupa 83 S.Ct. 1029

The Ohio Presumed Decedents Law, O.R.C. 2121.01 (J.S. A. 6-11) was enacted by the Ohio General Assembly. Under this law, The State of Ohio classified the "alleged escapee Haslem" legally dead, for all purposes under the law of this state on 6/6/78 through it's Cuyahoga Cnty. Ct. of Common Pleas (J.S. A. 4) Under Ohio Constitution Article I ss 18, this law may not be suspended.

Under O.R.C. 2121.08 A (J.S. A. 10) of the Presumed Decedents Law, The Supreme Ct. of Ohio may not re-classify the legally dead man, William John Haslem (J.S. A. 4) into a living person, as the following Ohio case law cites support:

"If any doubt exists with reference to the validity of a method of classification which has been made by the legislature, the doubt must be resolved in favor of the classification."
Cleveland v Davis, 95 OS 52

"The legislature has inherent power to classify, limited only by the constitution."
Xenia v Schmidy, 101 OS 437

By dismissing appellant's petition for writ of habeas corpus (J.S. A. 1) on appellees Motion to Dismiss for failure to state a claim upon which relief may be granted (R) when relief must be release from prison, Ohio Supreme Ct. has violated the Ohio Const. Article I ss 18 which mandates that Ohio laws may not be suspended or repealed except by the Ohio general assembly, and by illegally nullifying O.R.C. 2121.08 A (J.S. A. 10) in which the general assembly of Ohio has manifested its power to classify through, and which the Ohio Supreme Ct. must abide by:

> "Courts are controlled by language of statute, and arguments as to policy of statute must be addressed to the legislature and not to the courts."
> Morgenthau v Barrett, 1939, 60 S.Ct. 615

> "In interpretation of statute, it is presumed that legislature did not employ useless verbage and that each word has independent meaning."
> Skovgaard v The Tungus, C.A.N.J., 1957, 252 F 2d 14
> affirmed 79 S.Ct. 503

> "The plain meaning of a statute must be adopted, however severe the consequendes."
> Jay v Boyd, Wash., 1956, 76 S.Ct. 513

Appellant's fundamental rights guaranteed to him under the U.S. Constitutions 5th & 14th amendments which guarantee to all persons-due process of law & equal protection of law, were violated on or about 9/30/81, when officials of The State of Ohio placed appellant in prison in the name of William John Haslem, to serve the sentence of that person, who had allegedly escaped from Ohio prison on 2/27/69, without affording appellant due process of law when the 14th amendment of the U.S. Constitution requires that states, in enforcing their criminal laws, must do so only by due process of law,

> "This amendment imposes restrictions upon the states in making and enforcing criminal laws in so far as it requires due process of law."
> Knapp v Schweitzer, N.Y., 1958, 78 S.Ct. 1302

when the legal requirements of extradition, a process under which appellant was brought into the jurisdiction of the State of Ohio mandate that he be dealt with according to law.

Appellant was found to be only an alleged fugitive by Miami, Florida Dade Cnty. Magistrates Court (A. 1) Governor of Florida signed a warrant to give over alleged fugitive to Ohio officials to be taken to Ohio, and there to be dealt with according to law. (A. 2) Ohio Executive Department appointed officials to receive Haslem, the alleged fugitive, from Florida-to be taken to Ohio, and there to be dealt with according to law. (A. 3)

Appellant was NOT DEALT WITH ACCORDING TO LAW, when the specific requirements of the legal documents which support the extradition of appellant from Florida to Ohio are, that appellant be dealt with according to law. Appellant was placed in prison in the name of a person whom he is not, William John Haslem, as this person was decreed legally dead by The State of Ohio, through it's Cuyahoga Cnty. Ct. of Common Pleas on 6/6/78 (J.S. A. 4), according to law O.R.C. 2121.01 et. seq. (J.S. A. 6-11)

Appellant petitioned Ohio Supreme Ct. for writ of habeas corpus on 3/8/82, citing violations of fundamental rights guaranteed to appellant by the 5th & 14th amendment of the U.S. Const. to due process of law & equal protection of law (R. orig. pet. pg 1) and presented prime facie evidence of his illegal imprisonment, the valid and duly litigated judgement/decree of the legal death of William John Haslem (R. orig. pet. Pg 11 ex. 5) issued by the State of Ohio according to law O.R.C. 2121101 (J.S. A. 6-11) through its Cuyahoga Cnty. Ct. of Common Pleas.

Supreme Ct. of Ohio dismissed appellants case (J.S.A.1) and in so doing, rendered appellants U.S. Constitutional rights, as guaranteed to him under the 5th & 14th amendments to due process of law & equal protection of law by the U.S. Constitution, invalid, and nullified and suspended the law of Ohio in violation of the Ohio Constitution Article I ss 18 which mandates:

> "No power of suspending laws shall ever be exercised except by the general assembly."

The dismissal of appellant's petition for writ of habeas corpus by Ohio Supreme Ct. violates the 14th amendment of the U.S. Constitution which requires:

> "nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

CONCLUSION

The Ohio Supreme Ct. erred in dismissing Appellants petition for Writ of Habeas Corpus for release from prison and denied appellant equal protection of the laws as guaranteed to him by the 14th amendment of the U.S. Constitution in that appellant is being forced to serve the sentence of William John Haslem, a person whom he is not; as the State of Ohio decreed William John Haslem legally dead for all purposes under the law of the State of Ohio

on 6/6/78 and as such, The State of Ohio cannot legally expect any other person to serve the sentence of William John Haslem, "the alleged escapee" as all other persons are entitled to be equally protected by the decree issued by the State of Ohio through it's Cuyahoga Cnty. Ct. of Common Pleas on 6/6/78, decreeing that person legally dead, for all purposes under the law of the state, for any responsibilities for the dead persons liabilities.

The Supreme Ct. of Ohio erred in dismissing appellants petition for habeas corpus for release from prison by denying equal protection of the laws to appellant which are guaranteed to appellant by the 14th amendment of the U.S. Constitution by violating the Ohio Constitution Article I ss 18 which mandates that Ohio laws never be suspended except by the general assembly, and in doing so denied the right of the Ohio General Assembly to classify: a power that is recognised by the U.S. Supreme Ct. in Ferguson v Skrupa.

The Supreme Ct. of Ohio erred in dismissing appellants petition for writ of habeas corpus by denying to appellant equal protection of the law and due process of law which violates the fundamental rights of appellant guaranteed to him under the 5th & 14th amends. of the U.S. Const. by sustaining appellees Motion to Dismiss for failure to state a claim for which relief can be granted-when relief must be release from prison, when, in appellees motion to dismiss, appellee failed to show any legal cause, under the law, for appellants incarceration: as under habeas corpus, prisoner may require his jailer to justify his detention under law:

> "Writ of habeas corpus, where available, assures among other things, that prisoner may require his jailer to justify the detention under law."
> Payton v Rowe, 88 S.Ct. 1549
>
> "The privelege of the writ of habeas corpus is the right of the citizen to be discharged from imprisonment unless legal cause can be shown for his detention."
> In re Duncan, 1865, 6 D.C. 139

When the highest court of the state evades constitutional issues and denies a citizen equal protection of state laws, a case arrises under the Constitution, statutes & treaties of the U.S. and appellate review by the U.S. Supreme Ct. is warranted.

Respectfully submitted,

Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

Being held prisoner in name of:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

IN THE MAGISTRATE COURT
METROPOLITAN DADE COUNTY

The alleged fugitive, WILLIAM JOHN HASLEM aka JOHN PHILLIPS aka VICTOR BENJAMIN being produced before me and having been advised by me of the demand made for his delivery to the agents from the State of OHIO. Governor Warrants from the State of Florida and the State of OHIO having been produced before me, you are hereby remanded to the State of OHIO, and the Sheriff of Dade County, Florida, is ordered to turn you over to the agents from said State.

Dated at Miami, Florida, this 31st day of JULY A.D., 19 81.

MAGISTRATE COURT JUDGE
METROPOLITAN DADE COUNTY

114.01-01

THE STATE OF FLORIDA

To all and singular the Sheriffs and all Peace Officers of the Several Counties of this State to Whom This May Come, Greetings:

WHEREAS, The Executive authority of the State of Ohio has demanded of the Executive authority of the State of Florida the delivery and surrender of the body of William John Haslem, aka Victor Benjamin, aka John Phillips as a fugitive from justice from said State of Ohio to said State of Florida, and has produced and filed with the Executive authority of said State of Florida to which said State William John Haslem, aka Victor Benjamin, aka John Phillips has fled from the State of Ohio a copy of Demand, Judgment & Sentence, and Warrant.

charging the said person so demanded with having committed in said State of Ohio against the laws of said State of Ohio the crime of Murder second degree and escaped.

and which is certified as authentic by the Executive of said State of Ohio

NOW, THEREFORE, This is to command you to apprehend and arrest the body of the said William John Haslem, aka Victor Benjamin, aka John Phillips and deliver his said body to Grover H. Powell, & agents as listed. agent of the said State of Ohio, duly authorized and empowered to receive and convey the said William John Haslem to the state of Ohio, then and there to be surrendered to the legal authorities of said State, to be dealt with according to law;

PROVIDED, NEVERTHELESS, AND IT IS EXPRESSLY UNDERSTOOD, That all fees, expenses or charges in the execution of this order be paid by the said State of Ohio

Hereof fail not at your peril.

IN WITNESS WHEREOF, I have hereunto signed my name, and caused to be affixed the Great Seal of State, at Tallahassee, Florida, this 27th day of July A.D., 1981.

Governor

By the Governor

Secretary of State

A2
A2

Executive Department

OFFICE OF THE GOVERNOR

APPOINTMENT OF AGENT

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I, JAMES A. RHODES, Governor, hereby appoint

Captain Grover H. Powell, Lt. Frank M. Miller, Captain John W. Moore, and/or Mr. Russell L. Griffith

to receive from the appropriate authorities of the State of

Florida

WILLIAM JOHN HASLEM aka VICTOR BENJAMIN aka JOHN PHILLIPS

fugitive from justice, and convey him to the State of Ohio, for

return to Ohio,

there to be dealt with according to law.

IN WITNESS WHEREOF, by my Authenticating Officer, I have signed this Appointment of Agent and caused the Great Seal of the State of Ohio to be affixed at Columbus, this 22nd day of July, 1981.

Robert F. Howarth, Jr.
Authenticating Officer for
GOVERNOR JAMES A. RHODES
(Ohio Rev. Code Sec 107.15)

ATTEST:

Secretary of State

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

No. 82-5105

BRUCE THOMAS PHILLIPS
being held prisoner as:
WILLIAM JOHN HASLEM — Petitioner-Appellant

-v-

RONALD C. MARSHALL
SUPERINTENDANT
SOUTHERN OHIO CORRECTIONAL
FACILITY — Respondent-Appellee

PROOF OF SERVICE

Bruce Thomas Phillips, after being duly sworn, deposes and says that pursuant to Rule 28.3 of this court he served the within SUPPLAMENTAL BRIEF TO AMMEND CONSTITUTIONAL PROVISIONS AND STATUTES THAT THIS CASE INVOLVES and APPELLANT'S SUPPLEMENTAL BRIEF TO EXPAND ARGUMENT ON WHY QUESTIONS PRESENTED FOR REVIEW ARE SO SUBSTANTIAL AS TO REQUIRE PLENARY REVIEW TO INCLUDE OHIO CONSTITUTION ARTICLE I ss 18 AS THIS CONSTITUTIONAL PROVISION WAS NOT INCLUDED IN JURISDICTIONAL STATEMENT ARGUMENT ON THE QUESTIONS PRESENTED, on counsel for the Respondent Appellee by enclosing a copy thereof in an envelope, first class postage prepaid, addressed to;

Simon B. Karas
Assistant Attorney General
State Office Tower, 26th Flr.
30 East Broad Street
Columbus, Ohio 43215

and deposited same in the United States Mails at Southern Ohio Correctional Facility at Lucasville, Ohio on this 30 day of August 1982.

Bruce Thomas Phillips
Bruce Thomas Phillips
Petitioner Appellant
Pro-Se & Forma Pauperis

being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio 45699-0001

Subscribed & Sworn to before me
this ___day of _____1982

_____
Notary Public

(The notary public at this institution Mr. Paul Adams refused to notarize the proof of service but I swear that I have mailed these documents.
Bruce Thomas Phillips
Bruce Thomas Phillips

No. 82-5105

RECEIVED
SEP 2 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

BRUCE THOMAS PHILLIPS
BEING HELD PRISONER AS:
WILLIAM JOHN HASLEM — Petitioner-Appellant

-v-

RONALD C. MARSHALL
SUPERINTENDANT
SOUTHERN OHIO CORRECTIONAL
FACILITY — Respondent-Appellee

ON APPEAL FROM THE SUPREME COURT OF OHIO

APPELLANTS SUPPLEMENTAL BRIEF TO AMEND CONSTITUTIONAL PROVISIONS AND STATUTES THAT THIS CASE INVOLVES

William J. Brown
Attorney General

Simon B. Karas
Assistant Attorney General
State Office Tower 26th Flr.
30 East Broad Street
Columbus, Ohio 43215
614/466-5414

Attorneys for Respondent

Bruce Thomas Phillips
being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

Petitioner Appellant
Pro-Se & Forma Pauperis

Under this courts rule 16.6 appellant is filing this supplamental brief to include in THE CONSTITUTIONAL PROVISIONS AND STATUTES THAT THIS CASE INVOLVES the following Article of the Ohio Constitution.

OHIO CONSTITUTION

Article I SS 18:

"No power of suspending laws shall ever by exercised, except by the general assembly."

At the time appellant filed his jurisdictional statement, appellant was unaware of the existance of Art. I ss 18 of the Ohio Constitution and therefore did not include this constitutional provision in his jurisdictional statement. Appellant was not aware of the existance of this Ohio Constitutional Article because of the sporadic availiability of legal material from the prison law library where he is confined.

This Ohio Constitutional provision is fairly included in questions presented in this case, and its inclusion will not raise any new issues and it is necessary for the fair and just resolution to the questions presented for review.

CONSLUSION

In the interest of fairness and justice that this cause requires, and to which the Appellant is entitled, Appellant prays this court to permit the inclusion of Article I ss 18 of the Ohio Constitution in addition to the constitutional issues and statutes already presented to this court in the jurisdictional statement.

Respectfully submitted,

Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner Appellant
Pro-Se & Forma Pauperis.

being held prisoner in name of:
William John Haslem
124-110
Box 45699
Lucasville, Ohio
45699-0001

nbn

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

No. 82-5105

BRUCE THOMAS PHILLIPS Petitioner-Appellant
BEING HELD PRISONER AS:
WILLIAM JOHN HASLEM
-v-
RONALD C. MARSHALL Respondent-Appellee
SUPERINTENDANT
SOUTHERN OHIO CORRECTIONAL
FACILITY

PROOF OF SERVICE

Bruce Thomas Phillips, after being duly sworn, deposes and says that pursuant to Rule 28.3 of this court he served NOTICE OF DOCKET NUMBER on form provided by this court on:

Simon B. Karas
Assistant Attorney General
30 East Broad Street 26th flr.
Columbus, Ohio 43215

Attorney for Respondent-Appellee

by enclosing the form provided by this court in an envelpoe, first class postage prepaid, as addressed above, and depositing same in the United States Mails as Lucasville, Ohio on 8/2/82

Bruce Thomas Phillips
Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

being held prisoner as:
William John Haslem
#124-110
Box 45099
Lucasville, Ohio
45099-0001

Subscribed and Sworn to Before Me

this _____ day of _____ 1982

_____
Notary Public

(THE NOTARY PUBLIC at this prison Mr. Paul Adams, has refused to notarize the Proof of Service but I swear under penalties of perjury that I have maild same, on the above date.

Bruce Thomas Phillips
Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

82-5105

RECEIVED
SEP - 2 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Clerk of the Court
United States Supreme Court
1 First St. NE
Washington, D.C. 20543

August 29, 1982

Re: Case # 82-5105

Dear Sir;

On August 2, 1982 I received your letter informing me that my appeal was docketed in the U.S. S. Ct. on 7/23/82. Enclosed in your letter was a form for notifying opposing counsel of the case number, which I mailed to opposing counsel on the same day that I received it, which was on August 2, 1982.

Under this courts rule 16.1 appellee has 30 days to file a motion to dismiss or affirm, unless time is enlarged under the provisions of Rule 29.4.

Appellees copy of the jurisdictional statement was sent to him by me as the proof of service indicates-on July 20, 1982, so Appellee would have received it on 7/22/82.

I have received no notice from appellee that he has requested an enlargement of time under Rule 29.4, as his request must be made within the 30 day period following his receipt of the jurisdictional statement.

My question is, has the appellee filed a motion to affirm or dismiss case # 82-5105 ?

If Appellee has filed the above entitled motions, I have not received any copy as of the above date.

Under this courts Rule 16.6 I am filing the enclosed supplemental briefs as the information was unavailiable to me at time of my filing my jurisdictional statement.

The notary public at this prison refuses to notarize the proof of service as rule 28.3 requires that proof of service be notarized. I hope the proof of service is sufficient as signed by me. I dont know what else to do!

Also-I have along with the docketing of the jurisdictional statement included a Motion To Dispense With Colored Covers as this Courts Rule 33.2b requires Colored Covers. I hope that this Motion will be granted as there is no colored paper here at this prison in which I can make covers from and hope you will accept my documents with the white covers.

Sincerely
Bruce Thomas Phillips
Bruce Thomas Phillips
Petitioner Appellant
Pro-Se & Forma Pauperis

Being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio 45699-0001

PS: Please stamp the onionskin as to date received and return to me along with answers to above, if possible.

END OF DOCKET